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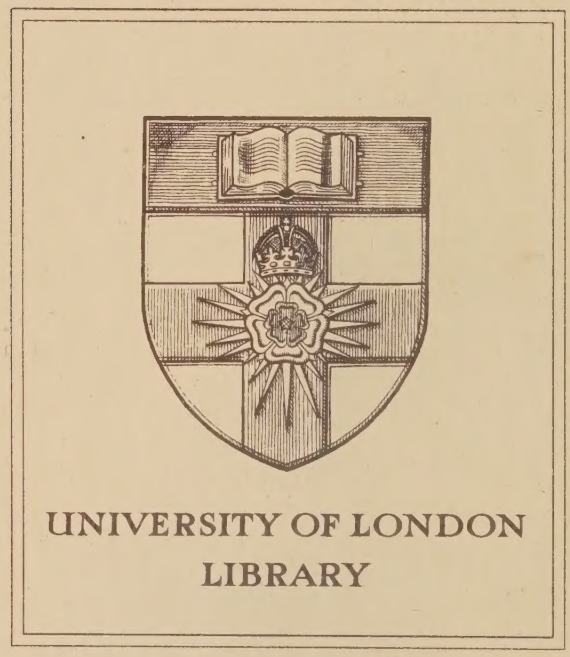

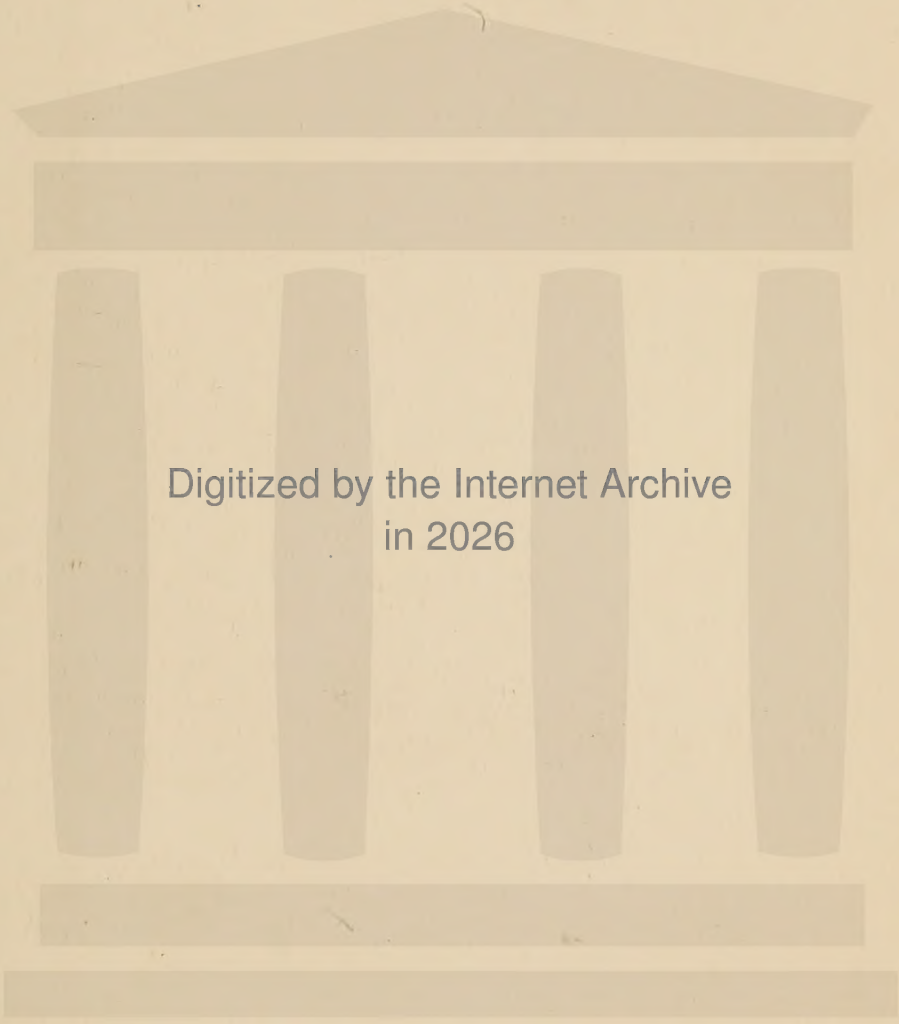

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REPORTS

FROM

COMMITTEES:

THIRTY-TWO VOLUMES.

—*(23.)*—

EAST INDIA.

LORDS.—Sess. 1852.

Session

4 *November* 1852 —— 20 *August* 1853.

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TWENTY-THIRD VOLUME.

N. B.—*THE* Figures *at the* beginning of the line, *correspond with the* N° *at the foot of each* Report; *and the* Figures *at the* end of the line, *refer to the* MS. Paging *of the Volumes arranged for the House of Commons.*

EAST INDIA:

41. REPORT from the Select Committee of The House of Lords appointed to inquire into the Operation of the Act 3 & 4 Will. 4, c. 85, for the better Government of Her Majesty's INDIAN TERRITORIES; together with the MINUTES of EVIDENCE, APPENDIX, and INDEX - - - - - - - - - - p. 1

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Brought from the Lords, 1 December 1852.

REPORT

FROM THE

SELECT COMMITTEE OF THE HOUSE OF LORDS,

APPOINTED TO INQUIRE INTO

The Operation of the Act 3 & 4 Will. 4, c. 85, for the better Government of Her Majesty's INDIAN TERRITORIES; and to report their Observations thereon to The House; and to whom were referred the Petitions of G. J. GORDON, respecting EDUCATION in INDIA, and of C. H. CAMERON, respecting the Establishment of UNIVERSITIES in INDIA; and to whom were also referred several Papers and Documents relative to the subject-matter of the Inquiry;

TOGETHER WITH THE

MINUTES OF EVIDENCE,

AND AN

APPENDIX AND INDEX THERETO.

Session 1852.

Ordered, by The House of Commons, *to be Printed,*
2 *December* 1852.

REPORT.

BY THE LORDS COMMITTEES appointed a SELECT COMMITTEE to inquire into the Operation of the Act 3 & 4 Will. 4, c. 85, for the better Government of Her Majesty's INDIAN TERRITORIES, and to report their Observations thereon to The House; and to whom were referred the Petitions of G. J. GORDON, respecting EDUCATION in INDIA, and of C. H. CAMERON, respecting the Establishment of UNIVERSITIES in INDIA; and to whom were also referred several Papers and Documents relative to the subject-matter of the Inquiry :—

ORDERED TO REPORT,

THAT the Committee have met, and have resolved to divide the important subject referred to them under the following Heads :

1. The Authorities and Agencies for administering the Government of India at Home and in India respectively.

2. The Income and Expenditure of the British Indian Empire, showing the Produce of the Territorial Revenues, and of all other Sources of Income, and the modes of assessing and levying each, in the respective Presidencies and Districts; also the progress of Trade and Navigation in India.

3. The Military and Naval Establishments of India—Character, Extent and Cost.

4. The Judicial Establishments of British India, European and Native; the modes of administering Justice, Civil and Criminal; and the working of the System, as exhibited by Tables of Trials, Appeals and Decisions.

5. The Measures adopted, and the Institutions established and endowed for the promotion of Education in India.

6. Works of local Improvement executed, in progress, and now under consideration.

7. Ecclesiastical provision for the diffusion of Christian Spiritual Instruction.

8. Miscellaneous Topics of Inquiry.

That they have examined Witnesses principally in relation to the first Head of Inquiry; but that their labours being terminated by the close of the Session, and a large field for investigation being still left open, the Committee earnestly recommend that the Inquiry may be renewed in the next Session of Parliament.

That, in reporting to your Lordships the Evidence taken, they confine themselves to the observation, that the general tendency of that Evidence is favourable to the present system of administering the Affairs of India.

The Committee have directed the Minutes of Evidence taken before them, together with an Appendix, to be laid before your Lordships.

20th June 1852.

MINUTES OF EVIDENCE.

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Die Lunæ, 3° Maii 1852.

THE LORD PRIVY SEAL in the Chair.

JAMES COSMO MELVILL, Esquire, is called in, and examined as follows:

1. YOU are now Secretary to the East India Company?
I am.

2. At the expiration of the last Charter what situation did you fill?
I was Auditor of Indian Accounts.

3. Can you state to the Committee what amount was realized from the commercial property which, by the Act of 1834, was made over to the government of India?
Under the Act of 1834, the East India Company surrendered their trade, their claims, territorial and financial, and all their commercial property to the government of India, and they were thenceforward to hold that property as trustees for the Crown; so much as was tangible was sold, and it realized the sum of 15,223,480*l.*

4. To what account was that sum of money carried?
£.2,000,000 of the amount was appropriated, under the authority of the Act, to the formation of a guarantee fund to secure the dividend, and ultimately the capital stock of the Company; 561,600*l.* was applied in the payment of compensations to shipowners and other persons; 8,191,366*l.* was applied to the redemption of Indian debt.

5. At what rate of interest?
Principally at six per cent.; but some of it at five, and some of it being Carnatic stock, at lower rates. Of the commercial assets, 1,788,525*l.* was applied in the discharge of home bond debt, and 2,218,831*l.* was applied in the payment of territorial demands in this country, thus obviating the necessity *pro tanto* of remittances from India; 463,135*l.* remained, and was retained as the available cash balance in this country, for the purposes of the government of India.

6. Were there not some other assets?
That was all that was realized in cash. There was the East India House and one warehouse retained for the military store department, also house property in India, the value of which, altogether, was estimated at 635,445*l.*, which remains in the hands of the Company, and is used for the purposes of the government of India.

7. Are you able to state the amount of the interest of the debt that was due and paid off by the Indian Government?
Such an account can be rendered, if called for.

8. Could you make out an account showing the balance as between the new charge thrown upon the revenues of India on the one hand, and the charge from which they were released on the other side?
That could be done. But I must be allowed to state, that the East India Company gave up large claims not included in the account of commercial assets realized, and these should be allowed for, in order to see fairly what has been the financial result of the arrangement of 1834.

J. C. Melvill, Esq.

3d May 1852.

9. Are you able to state the amount of those claims?
Not in money; the amount never having been ascertained or adjudged.

10. Of what nature were the claims?
The claims were upon portions of the territory of India derived from peculiar grants; also for the balance of the account between territory and commerce, and all claims which were disputed at the time of the last investigation, and which were never finally settled.

11. Claims for balances of unsettled accounts?
Yes.

12. Was any estimate ever formed of the amount of those claims?
I think not; excepting as respects the account between territory and commerce.

13. That arrangement was come to for the purpose of avoiding the necessity of going into that investigation?
One of the effects of that arrangement was, that it disposed of these claims.

14. Are you of opinion that the amount of those claims was not ascertainable?
The amount between territory and commerce, in my view of the question, was ascertained. The amount in money of the other claims it would have been difficult to fix, and no attempt was ever made to ascertain it.

15. Was there any reference of those accounts to a professional accountant?
No. By former Acts of Parliament, the territorial claims of the East India Company were distinctly and specifically reserved; in the last Act of Parliament, those claims were so far recognized, that they were surrendered by the Company.

16. Under the last Act of Parliament, that which is now about to expire, the Company hold the revenues of India solely for the service of the government of India; is it not so?
Clearly so.

17. What sum has been remitted annually from India for the home payments, including the dividends to the proprietors?
The annual amount o the remittances of Indian revenue to this country since 1834–35, has averaged about 3,300,000 *l.* per annum.

18. What amount of that sum is for the dividends of the proprietors?
The dividend is 630,000 *l.* a-year; it is fixed by the Act of Parliament.

19. Is not there a bond debt, consisting of Indian bonds?
Yes.

20. What is the interest upon that?
In the last year it was 144,970 *l.*

21. What was it in the first year?
It was 92,850 *l.* in 1834–35.

22. When you were obliged to raise money in this country by the issue of more India bonds, did you find it necessary at the same time to raise the rate of interest?
No, not in order to enable us to borrow money. The interest had been previously raised, in consequence of the state of the money-market, affecting the value both of bonds and Exchequer bills.

23. What is the interest at the present time?
Three per cent. per annum.

24. Generally speaking, has the interest upon your bonds borne a definite proportion to the interest upon the floating debt of this country, which circulates in the market?
It has so.

25. How much higher has the interest upon your bonds usually been than the interest upon Exchequer bills?
It has fluctuated between a quarter and a half per cent., and is now higher.

26. You

26. You have not altered the interest upon the India bonds on every occasion on which the Government has lowered or raised the interest upon Exchequer bills?
Not invariably; but we very generally do so.

27. In one case, did you not rather anticipate the movement of the Government, in respect to raising the rate of interest?
We did, some years since.

28. In what mode has the remainder of the money which has been remitted home been appropriated?
The purchase of stores for India is one item.

29. Can you state what has been the average amount of that charge?
The average of the last four (4) years has been 490,000 *l.* per annum.

30. Is there not a further charge for stores very frequently in India, in consequence of indents not being complied with in sufficient time, or to a sufficient extent?
Purchases of stores are occasionally made in India.

31. To a large extent?
To a considerable extent.

32. At a price very far beyond that at which they would have been furnished from hence?
I am not aware of that.

33. What are the other payments which are made at home?
There is furlough and retired pay to officers, amounting to upwards of 600,000 *l.* per annum, and there are payments to the Queen's Government, on account of Her Majesty's troops serving in India, which may average 400,000 *l.*

34. Of what items is that sum of 400,000 *l.* composed; does it include the 60,000 *l.* for half-pay?
No; the 60,000 *l.* for half-pay is a fixed sum not included in that which I have mentioned; it is payable, under a specific Act of Parliament, in quarterly payments; the sum which I have mentioned, of 400,000 *l.*, includes all that portion of the expense of the Queen's troops serving in India which is defrayed by Her Majesty's Government in England, the depôt charges, the recruiting charges, in fact every charge which is incurred and paid in England for the troops serving in India?

35. Does it include clothing?
It includes the off-reckonings.

36. Are there any other charges which are paid at home?
Another item of home expenditure consists of annuities and pensions, including compensation annuities, which were granted under the Act of 1834; the total amount is 198,000 *l.*

37. Could you give the Committee a return of the value of those compensation annuities, as calculated by an actuary?
No calculation of that kind has been made, I believe; it could be done, as in most cases we have the ages of the parties; it is a rapidly decreasing charge.

38. Will you have that done?
I will inquire if it can be done.

39. Are there any other charges?
There are a variety of charges, if the Committee wish to have them in detail; there is the expense of Haileybury, of Addiscombe, of the Home Establishment; they will all be included in the return which the House of Lords has called for.

40. Of that sum of 198,000 *l.*, what proportion will represent the compensation annuities?
I am not now prepared to state the proportion, but I should think it large.

41. The largest proportion?
I think so.

 42. Now,

J. C. Melvill, Esq.

3d May 1852.

42. Now, with respect to the mode of remittance, was not one of the points with respect to which much was said at the time of granting the new charter, a considerable fear on the part of the East India Company that they would not be able to procure the necessary remittances from India?

Apprehensions of that kind were expressed, and I must confess by no one more than by myself.

43. Have those apprehensions been realized?

I am happy to say that they have not.

44. Will you explain the mode in which those remittances have been made?

They have been made principally by bills on India; by bills remitted from India on the system of hypothecation, and also from China on the same system, in the earlier periods since 1834, and occasionally by bullion; remittances by way of China have ceased to be made by the Company.

45. Why has that mode of getting the money through China ceased?

The Court found that they could do without it, and an agency in China was not a desirable arrangement; neither was it acceptable to the trade.

46. Are you aware that a very large portion of the American trade is carried on by means of English bills?

Yes; the merchants complained bitterly of the interference of the East India Company in China, and the remittance by that channel was suspended, and has never since been restored.

47. Will you explain the hypothecation system?

It is a system of Government advances in India to merchants who wish to purchase goods for export to England; the Government advances the funds, and the person to whom the advance is made gives a bill upon his agent, and delivers over to the Government the bill of lading of the cargo, as collateral security.

48. Has not that been very much complained of by English merchants?

It has occasionally, but by no means uniformly, been complained of; at the commencement of the new system, the India merchants desired that the Company should make advances; there was then very little capital in India, and the merchants were not prepared to enter, as they could wish, into the trade upon their own resources; afterwards the merchants, when the system was in operation, complained of it, and were ready, as soon as there was disappointment in the sales in this country, to ascribe this disappointment and loss to the interference of the Government in the market of India by hypothecation; but when money again became scarce, the merchants indicated their wish that the Government would resume their advances, and advances were made accordingly.

49. Is that within the last two years?

Within the last three or four years.

50. Is not that system complained of very much, as furnishing artificial capital to parties who have not sufficient of their own to carry on business, and thereby interfering with the operations of real capitalists?

That is one ground of complaint; we have reason to believe that there is as much hypothecation going forward now as there was when the Government hypothecated, but it is by capital sent out by private individuals from this country.

51. That system is now suspended?

The policy of the Court of Directors has been to depend, as far as possible, upon supplies by means of bills upon India, as being the most simple course, and that which apparently interferes less with trade than any other; they have gradually reduced the amount to be hypothecated, and during the last two years they have completely discontinued it.

52. Has any inconvenience arisen from that suspension of the hypothecation system in the way of remittance?

None.

53. Have the Court of Directors discontinued it from an objection to the principle of hypothecation, or from finding a more expedient and better course of obtaining remittances?

They have found the remittance by bills the simpler course, and so long as it affords

affords to them a sufficiency of funds, so long they will, I apprehend, adhere to it as their only mode of remittance.

J. C. Melvill, Esq.

3d May 1852.

54. Was there not great objection entertained from time to time to the appearance in the market, of the government of India, unexpectedly disturbing the ordinary mercantile operations of the country?

Complaints of that nature have been made by official reports from the government of India to the Court of Directors.

55. Is the justice of that complaint at all admitted?

I think not.

56. You think that the disturbing effects caused by the appearance of parties, with funds which they are under the necessity of remitting at certain unexpected periods, is not seriously felt as an inconvenience in the money markets of India?

I do not think the objection is admitted to be well-founded; but the Court of Directors always desire in these remittances to take the merchants along with them, and, therefore, although the objection may not be well-founded, they yield to it whenever the interest and convenience of the public service permit.

57. Did not the government of India at one time, in 1843 or 1844, feel the objection to the system of remittances of money by hypothecation of goods so strongly, and did not they feel so satisfied that the Government here would approve of those objections, that they issued a general notice to the merchants, stating that they had represented this objection, and that after a certain period no such remittances would take place?

They did so; the Government issued such a notification, and the Court of Directors found fault with them for having so done.

58. Have the Court of Directors an apprehension of being left too much at the mercy of the merchants, if they depend solely upon bills from England?

I have occasionally heard an apprehension expressed that the merchants might combine; but I doubt whether it is well-founded.

59. Is care taken here, in drawing those bills upon the different governments in India, not to draw in very large sums at the same period, but so to diffuse the drafts, as to enable the Treasury there to meet the drafts without difficulty?

The only limitation put upon the demand for bills in this country is by raising the exchange; and whenever the supply comes in too abundantly, either more than is wanted here, or more than the government of India can conveniently meet, the rate of exchange is raised.

60. Have you any recollection of bills, to the amount of more than a million, being drawn in a month upon the government of Bengal?

Yes, I believe that to have been the case upon one occasion.

61. When the rate of exchange has varied, what steps are taken?

It is never varied without the concurrence of the Board of Commissioners.

62. Are the Committee to understand, therefore, that the alterations of the rate of exchange are made upon political principles, and that the rate of exchange is not left to the natural operation of the amount of bills at different times in the market, as compared with the demand for those bills?

The rate of exchange is regulated entirely by the necessities of the Home treasury, and the convenience of the Indian treasury.

63. The rate of exchange with regard to India is not left, like the rate in other countries, to depend simply upon mercantile transactions?

The Government fix their rate of exchange.

64. Does not the rate of exchange for commercial transactions follow the rate of exchange in the Government transactions?

The Government transactions are so large, that I think they must have an influence on the mercantile rate; the mercantile rate of exchange for bills on India is generally lower than ours.

65. Must not some amount of disturbance in commercial transactions necessarily arise from the necessity of annually remitting a tribute of 3,000,000 *l.* from India?

J. C. Melvill, Esq.

3d May 1852.

I have always considered it impossible for the Government to effect such an amount of remittance without, in some degree, interfering with trade.

66. Is the rate of exchange regulated by the amount of your bills, and the amount of commercial bills in circulation, as compared with the demand for them; or is it in addition or collaterally to that, regulated by any arbitrium on the part of the Government or the Indian Department in conjunction with the Chancellor of the Exchequer?

I think it must be regulated in a great measure by the knowledge which the merchants possess of the amount of the East India Company's demand; once in every year that demand is notified to the merchants; the merchants, therefore, know how much in the whole year we are going to draw, and I think they must regulate the demand for bills accordingly, and the rate of exchange is affected by that demand.

67. It is a pretty constant quantity?

Yes; though there have been occasional variations of considerable amount.

68. Have you any means of naturally regulating the rate of exchange, except by limiting or increasing the quantity of bills that you put into the market?

None.

69. Then, are your rates of exchange regulated by the ordinary principles which regulate commercial exchanges, or are they regulated by the interposition of any arbitrium on the part of the Government?

By no arbitrium of the Government.

70. What is the nature of the communication to which you have referred, which takes place between the authorities of the East India Company and the Chancellor of the Exchequer, as bearing upon the question of exchange?

When the demand for our bills becomes excessive, the necessity is apparent of raising the exchange to check it, and then we go to the Board, and represent the circumstances to them, and obtain their concurrence.

71. That is only obtaining the concurrence of the Government for an operation, in relation to the exchange, which would be the natural effect of the state of things at the time, if you were a great commercial house dealing in exchanges?

Exactly so.

72. What is, at the present time, the balance at the Bank in the name of the East India Company?

I think, at this moment, the cash balance is about 700,000 *l.*

73. Is not that much lower than it used to be formerly?

It has varied; but independently of the cash balance, the Court have larger available means in this country, and they lend a portion of the cash balance so as to make it productive.

74. What are your available resources here?

I think, in addition to the cash balance, we have a sum of nearly 585,000 *l.* out on loan; we have 1,000,000 *l.* of Exchequer bills, and I think we have an investment in stock to the extent of 1,000,000 *l.*; it has been thought only prudent, with such large demands as are continually made upon the home treasury, and with the liability to expensive operations in India, that the Company should possess a large available fund in this country.

75. You have about a year's expenditure in hand?

Not quite.

76. What description of loan is it upon which that money is lent?

It is a loan always upon the security of stock, for a short time.

77. Loans at call?

Yes.

78. Although the low rate of interest for money in the London market may diminish any possible profit which you may derive from those available assets here, it is not on that account the less necessary, as a matter of prudence, to maintain

maintain this reserve always, in the manner you have described, so as to have it available?

Certainly not.

79. Is not the present reserve considerably larger than it has been in former times?

It is; when the Government of India has been straitened in their means, then the Company has remitted a portion of the home demand, and made use of its available means, and thus, of course, the amount available was reduced; upon India being again able to make remittances, the reserved fund has been gradually replaced.

80. Were not the financial difficulties of the Indian Government such, about the month of January 1842, as to induce the Government of India to make a suggestion to the Court of Directors, that no bills should be drawn upon India for a considerable period, and that the Company should raise all the money that it wanted by the issue of India Bonds here?

I am not aware of any such suggestion having been officially made to the Court of Directors; but at that period the demand upon India by the Court of Directors was very much reduced.

81. In point of fact, at the end of the month of February 1842, was it not very difficult to raise any money at 5 per cent. in India?

I believe it was.

82. Do you know the amount of assets at that time in India, when that suggestion was made?

I do not; but it can be returned.

83. Are there not some remittances in the Queen's Government bills from India?

Yes; those will all be included in the return which has been ordered.

84. At what rate have the hypothecation remittances been made?

The average rate of remittances by hypothecation from India has been 1 *s.* 11 ¾ *d.*; that from China, so long as it lasted, was rather more than 2 *s.* 0 ½ *d.*; the metallic value of the rupee, at the present price of silver, 5 *s.* an ounce, is 1 *s.* 10 ¼ *d.*

85. Is not the silver in the rupee as fine as the coinage of this country?

There is a certain proportion of fine silver, and a certain proportion of alloy; 165 grains of fine silver, and 15 grains of alloy.

86. What comparison does that bear to the British coinage?

I do not think it is comparable with the British coinage; the silver currency here is a mere token, gold being the standard.

87. In converting the Company's rupee, do you convert it at the rate of 1 *s.* 10 ¼ *d.*?

No; we adopt 2 *s.* the sicca rupee, equal to 1 *s.* 10 ½ *d.* the Company's rupee, in our statements of the revenues and charges of India; but I am now comparing the metallic value of the coin with its worth in exchange.

88. The silver coinage of this country, being depreciated as compared with the real value of silver, you compare the rupee with bar silver?

Yes; it is, of course, impossible to establish a fixed par between a standard currency which is silver, as in India, and a standard currency which is gold, as in England; you can only take the average value of silver in this country, and then apply that to the rupee, so as to make an approximate par for it.

89. So far as you have a relative value fixed by comparing the Mint prices of gold and silver in this country with the price of bar silver, you do get a means of comparison?

Yes.

90. The comparison suggested is a comparison between bar silver and the Mint price of gold?

Yes, clearly.

91. If you took rupees to the Mint in this country, in what proportion should you obtain English silver in exchange for them?

J. C. Melvill, Esq.

3d May 1852.

The Mint buy gold, but not silver, at fixed prices. Reverting to the statement of remittances, I find that the rate of bills on India has been 1 *s.* 10 $\frac{3}{4}$ *d.* on an average of the whole period; the bullion remittances have averaged as nearly as possible 1 *s.* 10 *d.*; the average rate of the whole of the remittances by all modes during the present period has been 1 *s.* 10 *d.*, which is about four per cent. gain over the metallic value of the rupee.

92. Do you take into consideration the interest?
No, there is no allowance of interest in any of these rates.

93. But, in point of fact, you are entitled to take credit for the interest when you get the money, before you pay it?
We are entitled to take credit in the case in which we receive the money before we pay it, and *vice versâ* to charge it.

94. When you say "during the present period," do you mean since 1834–35?
Yes.

95. What period does it come down to?
One thousand eight hundred and fifty–fifty-one.

96. In abandoning the hypothecation in China, you sustained a considerable loss?
We ceased to derive a considerable profit.

97. The system of hypothecation was a source of gain to the Company?
Yes.

98. Was the system of remittance by bills also a source of gain?
There was a gain upon remittance by hypothecation, as compared with that by bills on India.

99. Were the losses considerable by hypothecation?
Very trifling, considering the magnitude of the transactions.

100. Were there any establishment expenses which you got rid of by abandoning the system of hypothecation?
Not in England.

101. In China there were?
Yes, the China agency was abolished.

102. In which direction is the current of bullion now moving; into India or out of India?
For some time past it has been flowing into India.

103. Is it not the fact, that there is a net import into India of bullion, almost every year, to the amount of about 1,000,000 *l.*?
That is the case.

104. Where does that import principally come from?
I think principally from China; occasionally, when the exchange is very high, bullion goes from this country; large sums have so gone during the last year, and the present.

105. Both gold and silver?
Both gold and silver, but principally silver, the price of which has, however, been very high.

106. Can you give the Committee the general results of Indian finance since 1835?
I hold in my hand an account of the gross and net produce of the revenues of Bengal, the North-western Provinces, Madras and Bombay combined, and of the gross and net charges defrayed out of those revenues, from the year 1834–35 to 1849–50, and as estimated for 1850–51, with an Appendix, containing, for one year, the details of those receipts and charges, from which the Committee may see of what they consist; this statement has been ordered by the House of Lords, and will be presented either to-day or to-morrow; I am quite ready, if the Committee desire it, now to give them the general results of this statement.

107. Are the Punjaub and Scinde included in this statement?
They are.

108. Will you state the results?

This statement comprehends a period of 16 years of actual account, from 1834-35 to 1849–50, inclusive, and also the estimate for 1850–51; from this statement I have prepared some results, which I will now give: in four of the 16 years, there was a surplus of revenue over expenditure, and in the other 12 years there was a deficiency; the aggregate of the whole 16 years is a deficiency of 11,800,000*l.* I have thought it might probably be useful to the Committee to show the progress of these results; with this view, I have divided the 16 years into four periods, each of four years, taken consecutively, and I have made an annual average of each: in 1834–35 to 1837–38, being the first period, there was an annual surplus of 818,894 *l.*; in 1838–39 to 1841–42, there was a deficit of 1,511,732 *l.* per annum; in 1842–43 to 1845–46, there was a deficit of 1,256,757 *l.* per annum; in 1846–47 to 1849–50, there was a deficit of 1,000,586 *l.* per annum; and the estimate for 1850–51 shows a deficiency of 678,381 *l.* I have also prepared averages in a similar mode of the principal items of receipt and charge. The first head of receipt is the great source of income, the land revenue, including subsidies and abkarree; the amount from this was 10,049,550*l.* annually, in the first period; in the second period, 10,116,112 *l.*; in the third, 10,739,468*l.*; in the fourth, 11,773,106 *l.*; and the estimate for 1850–51, is 12,638,147 *l.*

109. Would it not be advisable, for the purpose of comparison, to separate from those gross sums, the receipts from territory added during that period?

A return of that kind has been called for, and I shall be able to give that afterwards. The next item of receipt is the customs, which has been 1,312,568*l.* annually, for the first period.

110. By "Customs," you mean both land and sea duties?

Yes. In the second period, the amount was 1,127,969 *l.* per annum; in the third, 1,218,703 *l.*; in the fourth, 1,083,524 *l.*; and the estimate for 1850–51, is 1,331,179 *l.* The next item is salt.

111. Under which of those heads is the duty on salt imported?

The duty on salt imported, is stated in the account under the head of customs.

112. Is it not important that that should be stated, in order to show how far the introduction, by sea, of so large a quantity of salt affects the proceeds of sales of salt in Bengal?

I can deliver in a statement of the salt revenue, combining the customs receipt for salt with the proceeds of sales of salt; the receipt under the head of salt, exclusive of customs duty on imports, was 1,359,692 *l.* for the first period; for the second period, 2,053,224 *l.*; for the third, 2,035,020 *l.*; for the fourth, 2,093,454 *l.*; and the estimate for 1850–51 is, 1,533,192 *l.* There have been two reductions of duty, and some apprehension is felt that the duty has gone so low as to affect the revenue.

113. Could you state at what price the 100 maunds (of 80 lbs. weight) are now sold?

The cost price in Bengal, including the duty, is about a penny a pound, as nearly as possible.

114. Can you state it on the hundred maunds?

If the Committee will call for such a statement it shall be rendered.

115. Could you state what is the estimate of the customs duty on salt for the next year?

The customs duty from salt for 1851–52 is estimated at 60 lacs of rupees, that is, 600,000*l.*

116. Is not that almost altogether a new receipt?

It is, in a great measure, a new receipt, and is gradually increasing.

117. That is included in the Customs Return?

Yes.

118. Are you able to state whence that salt comes?

A great deal of it comes from Cheshire.

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119. Can you state the number of tons?
I have not that, but there is no difficulty in giving it.

120. Have not the salt duties in Bombay greatly increased in the last 10 years, much more than at the other Presidencies?
The proceeds from the salt duty at Bombay have greatly increased.

121. In a much greater proportion than in Bengal and at Madras?
There has been a considerable increase; the revenue from salt at Bombay is about 200,000 *l.* a year.

122. It is much cheaper in Bombay than in Bengal?
Much cheaper.

123. Will you proceed to the next item of receipt?
The next item is opium; in the first period the receipts from opium averaged 1,263,462 *l.* per annum; in the next period only 746,238 *l.*; that was the time of the China war; in the third period, 2,012,354 *l.*; in the fourth, 2,560,693 *l.*, and the estimate for the year 1850–51, is 2,700,662 *l.*

124. Does that include the sum raised by passes at Bombay?
Yes.

125. Can you state the amount of receipts from those passes in 1834, and in the last year?
It was 13,77,425 rupees in 1834–35, and in 1850–51, the estimated amount is 79,77,200 rupees, in the last two years the amount has been largely increased; the only other item of receipt which it seems desirable to mention in this classification is stamps; in the first period that is 330,769 *l.*; in the second, 373,534 *l.*; in the third, 385,904 *l.*; in the fourth, 407,482 *l.*, and the estimate is 420,495 *l.* Now, to complete the review of the receipts for the whole 16 years, I ought to add, that within that period there was received 159,867 *l.* under the treaty of Gwalior; 576,137 *l.* from the late government of Lahore, and also 652,195 *l.* from Golab Sing, under the treaty.

126. Will you now state the charges for the same periods?
The average charges are, first, civil and political charges, including provincial battalions, in the first period, 1,314,348 *l.*; in the second, 1,799,024 *l.*; in the third, 1,721,312 *l.*; in the fourth, 1,918,613 *l.*; and the estimate, 1,993,989 *l.* Then the judicial charges, including the police, are in the first period, 1,559,050 *l.*; in the second, 1,603,132 *l.*; in the third, 1,678,740 *l.*; in the fourth, 1,797,290 *l.*; and the estimate is, 2,048,846 *l.*

127. What is the reason for the great rise in the estimate?
I am not prepared at this moment to give a particular explanation of that. There has been an increase of territory. The next charges form the great item of military and war charges: the military charges of all India for the first four years, were, on the average, 6,743,714 *l.* per annum. In the next period of four years they were, including the war charges, 8,216,216 *l.* per annum. In the third period they were 9,584,177 *l.* In the fourth period they were 10,290,338 *l.*; and the estimate is, 9,991,858 *l.* Now, this increase of military expenditure amounts, for the whole period, to an aggregate of 30,435,356 *l.* In other words, if the military charges had remained as they were in the first four years of the present system, we should have spent, under that one head, 30,435,356 *l.* less than we have.

128. That is, if there had been no war?
Of course. Then for the marine: in the first period, the charges were 183,525 *l.*; in the second period, 231,476 *l.*; in the third period, 227,360 *l.*; in the fourth period, 269,459 *l.*; and the estimate is 338,411 *l.*

129. That appears to be extremely different from a printed statement which has been laid before the Committee?
My averages are founded on the net charges, deducting the receipts. The statement referred to gives the gross charges, and this causes the apparent difference.

130. What receipts are there?
Pilotage is one of them; the receipts are, upon the average, upwards of 100,000 *l.* a year.

131. Does

131. Does the cost of Europe stores include the building of vessels?
No; that is stated separately. I have no doubt that one difference between the two statements is that which I have mentioned, that in the one case, we state it net, first of all stating the gross charges, and then the receipts, and so bringing it to a net amount. The only remaining item in the Indian account, is the interest upon the registered debt of India; in the first period, it is 1,535,110*l.*; in the second, 1,451,740*l.*; in the third, 1,740,669*l*; in the fourth, 1,991,320*l.*; and the estimate is 2,201,105*l.* Then there are the home charges: these charges comprehend stores, of which the amount, in the first period, is 223,189*l.*; in the second, 290,846*l.*; in the third, 373,005*l.*; in the fourth, 497,410*l.*; and the estimate is 364,386*l.*

132. Are those stores military or naval stores?
Yes.

133. Then some of those might be classed under other heads?
When issued in India, the cost would be charged to the proper department.

134. They would go to swell the amount of military or naval expenditure?
Yes.

135. Are they called home charges, because they are paid in England?
Yes. Besides stores, the amount of the home charges, in the first period, was 1,983,027 *l.* per annum; in the second, 2,372,902 *l.*; in the third, 2,359,881 *l.*; in the fourth, 2,464,827 *l.*; and the estimate is 2,352,800 *l.* This includes the interest on the home bond debt.

136. Could not the stores be allotted to the several heads to which they belong?
They cannot be allotted till they are issued in India, when the Indian books contain entries of their allotment to the several departments.

137. Would it not be convenient, if you were to allot them to the several departments to which they properly belong?
The account comes down to the latest period, and we do not know till three or four years have elapsed, what stores have been issued, and what remain in store.

138. What is included in this last item?
I have already enumerated most of the items of home charge; they include the dividend to the proprietors, the interest on the home bond debt, the military expenses in this country of the Queen's and the Company's troops, the charges of the Home Establishments, the Board of Control and the Court of Directors, of the annuitants and pensioners, the expenses of Haileybury and Addiscombe, Her Majesty's Mission to the Court of Persia, and absentee allowances to civil servants, and various other items.

139. Looking at the general abstract of the revenue and the charges of India, for the years comprised in the accounts which have been prepared for the Committee, namely, 1845-46, 1846-47, and 1847-48, it appears that 1,911,791 *l.* is stated as the deficiency?
In 1847-48, the deficiency amounted to 1,911,186 *l.*

140. Then the estimate is taken separately?
The estimate is for another year, 1850-51. It will be found that this account, from which I have drawn my averages, entirely corresponds with the accounts annually presented to Parliament.

141. Can you give the Committee a statement of the progress and present amount of the debt of India?
Here is an account, which has already been ordered by the House of Lords, which shows the transactions connected with the Indian debt, from 1834 to the latest period; and it shows that the debt amounted on the 30th of April 1834, including the bond debt, to 38,986,720 *l.*, and on the 30th of April 1850, to 50,807,564 *l.*; this is after applying 8,122,530 *l.* of the commercial assets to the discharge of the Indian debt, and 1,788,525 *l.*, from the same source, to discharge the home bond debt.

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142. Was it a large portion of the debt of India which was paid off, that was at six per cent.?
It was between five and six millions sterling.

143. Was there not a further advantage in paying off these debts; were they not remittable debts, most of them?
They were; and the arrangement that was made was to invite the holders of the remitted debt to accept a lower rate of interest, viz. 5 per cent., and to alter, in a degree, the conditions upon which it was ultimately remittable to England, without taking away altogether that privilege from the holders.

144. In what position does the debt now stand as to its being remittable or not?
The sum that was transferred to the 5 per cent. debt, under this arrangement, was 3,326,000 *l.*, which remains outstanding, and forms what we call the transfer loan, having the privilege of transfer to this country at the will of the holder; the condition is, that no part of this loan shall be paid off before the 22d of April 1854, when the present period expires, and that, whenever redeemed, a previous notice of 15 months shall be given by public advertisement, which notice may be issued at any time after the 21st of January 1853, and payment is then to be made, at the option of the creditors, either in cash in India, or by bills upon England at twelve months date, and at 2 *s.* 1 *d.* the sicca rupee.

145. In what mode is the Indian debt contracted?
When the Government wants money, it advertises that the Treasury is open to receive money upon loan, at certain rates specified in the advertisement, and upon the conditions there contained; and so long as the loan remains open, parties are admitted to make what payments they please, and to receive what are called loan notes in acknowledgment.

146. To any amount, great or small?
To any amount.

147. There has been a very considerable increase in the debt in the last period, amounting to about 20,000,000 *l.*?
Altogether, if allowance is made for the assets applied, the increase will amount to upwards of 20,000,000 *l.*

148. What is the difference in the sum total of interest paid upon that debt?
The interest upon the debt has increased from 1,535,000 *l.* to 2,201,000 *l.*

149. Is the money borrowed in India or in England?
The money raised on loan is all raised in India; the East India Company have no power to raise any money in this country except upon bond.

150. At what rate of interest do the Indian Government borrow, as compared with the English Government?
I should think that the rate of interest on government loans in India is 1½ per cent. higher than in England.

151. At present, the 5 per cent. loan is not open?
The 5 per cent. loan has been closed; the 4 per cent. loan is open, but it is unproductive.

152. What is the discount upon it at present?
It is very considerable.

153. Is it as much as eight or ten rupees?
It is 10 per cent.

154. Therefore, the Governor-general of India at the present time, in commencing a war with Ava, has no resources but such as are furnished by the revenues of the country?
He has a very large cash balance, I am happy to say.

155. But he has no resources from loan at the present moment?
None.

156. What

156. What is the cash balance?

The cash balance, according to the latest accounts, is upwards of 12,000,000*l.* It is diffused over a vast extent of territory.

157. You mentioned that you were about to present some of the papers to-day; when do you think the others will be presented?

I think most of them will be presented very quickly. Some of them are rather lengthy: but I should think the majority of them will be presented this week.

158. In the Financial Letter of the Court of Directors of the 25th of October 1848, there is the following statement in the 35th paragraph: "In 1843-44 you obtained payment from the Gwalior Durbar of 3,20,200 rupees, 'in part of compensation for losses sustained during and in consequence of the late hostilities' with that State. The expenditure assumed in the treaty on that account was five lacs; but we do not find that any payment was obtained beyond the sum of 3,20,220 already stated, excepting the 10 lacs also stipulated to be paid on account of the war charges." Then, at the foot of the page there is this, under the head of "Gwalior:" "Extraordinary Civil Receipt, 3,20,220 rupees; military receipt, 10,00,000 rupees, making 13,20,200 rupees." Now, when this letter was written, did it not occur to those who had to frame it to refer to the treaty, to see how far the payments under the treaty corresponded with this statement which they were making of the payments required by the treaty, those payments being five lacs in compensation for losses (that is, provided the losses were found to amount to that sum), 10 lacs already due under the head of Tribute, one lac on account of expenses incurred for Baeza Bhaee, and 10 lacs for war charges, making a total sum of 26 lacs. Did it not occur to the Court of Directors to direct inquiry to be made into that matter, because it would appear that not only had there been a deficient sum paid under one head, but that a sum of 110,000*l.* which was stipulated to be paid by the treaty, had not been paid at all?

I apprehend, that if there has been any failure in that respect on the part of the Gwalior government. it has been noticed in the political department, and not in the financial; I can tell your Lordships the whole of the sums that we have stated in this account as receipts from Gwalior; we received, in 1843-44, from the Gwalior government, on account of the war charges, and for compensation for losses sustained during and in consequence of the late hostilities at Gwalior, under the 5th Article of the Treaty, 123,771*l.*; and we received, on the same account, in 1848-49, 8,648*l.*; and, in 1849-50, 27,748*l.*; those are all the entries that appear in our statements under that head,

159. Why is this sum of 3,20,220 rupees entered at the foot of this paper as an "extraordinary civil receipt," was it not altogether a war receipt in compensation for losses sustained by the people of the enemy?

I should think we have followed the mode of statement adopted in India in that respect.

160. It is stated in the 40th paragraph "The judicial charges also exhibit an increase of no less than 16,30,235 rupees between the years 1838-39 and 1845-46, a large portion of which we perceive arises from the formation of a military police force in the North-west Provinces;" how is it possible that the formation of four battalions, which is the whole extent of the force which is substituted for the civil police, at a somewhat higher rate of pay, can possibly amount to so large a sum as 16 lacs of rupees?

Before I attempt to explain that, I must look into the account; a large item of the judicial charge is the expense of police.

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned till Thursday next, One o'clock.

Die Jovis, 6° Maii 1852.

THE LORD PRIVY SEAL in the Chair.

JAMES COSMO MELVILL, Esquire, is called in, and further examined as follows:

161. WILL you state to the Committee the constitution of the Home Government of India previously to the commencement of the present Charter?

Previously to 1834, the East India Company were a trading corporation, entrusted also with the government of India.

162. How was the Board of Directors then formed?

It was formed, as it is at present, by Proprietors of East India stock, possessed of a certain amount of qualification, elected to the office of Directors by vote taken by ballot in the General Court of Proprietors.

163. In what manner did the General Court of Proprietors interfere with the trading and political power of the Directors?

They had no authority, practically, to interfere with the political government of India; they were precluded by law from altering, varying or rescinding any resolution of the Court of Directors touching the government of India, after it had been approved by the Board of Commissioners. They could, however, call for papers, and meet and discuss questions affecting the government of India.

164. Could they interfere in the trading operations of the Company?

I apprehend that they had power to interfere in the trading operations; but they did not do so practically.

165. At the commencement of the present Charter, how was the power of the Proprietors restricted?

Under the Act of 1834 the Company ceased to trade, and were restricted to the government of India. The effect of this change was to make both the Court of Proprietors and the Court of Directors more Indian in their character than they had previously been. The number of Proprietors connected with India has been increased, and the number of Directors connected with India has been also increased. In the elections to the direction which have taken place since 1834, there has been only one instance of a Director chosen who had previously no connexion with India. In the period previously to 1834, a period of 20 years, there were seven such instances.

166. Can you state the number of Directors who have been elected since the commencement of the present Charter?

In the period between 1814 and 1834, 20 years, 26 Directors were elected, seven of whom had not been previously resident in India. During the present period, since 1834, there have been 21 Directors elected, and one only not previously resident in India.

167. Will you state the name of the Director elected since 1834 who is not connected with India?

Mr. Martin Tucker Smith.

168. Will you state what other changes have been made?

Another change consisted in an alteration in the mode of voting. Previously to 1834 the voting was all by ballot; in 1834 a system was introduced of voting by

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by proxy, at the option of the voter, and the effect of that has been largely to increase the number of votes given. In the three contested elections previously to 1834, the average number of votes given was 1,467; in the three last contested elections, the average number of votes given was 2,036, and there has been very little variation in the number of votes available.

169. Can you state what is the usual number of votes available of the Court of Proprietors?

Two thousand three hundred and fifty is the total number of votes that could be given; that is the average number.

170. How many voters are there?

The number of voters is about 1,770.

171. How many votes can any individual give?

Four is the maximum.

172. Will you proceed in describing the changes which have taken place since 1834?

Previously to 1834, the East India Company had a large capital, and they had claims on the territory, which had been reserved by previous Acts of Parliament. Under the arrangements of 1834, they held that property only as Trustees for the Crown. The powers of the Board of Control and the jurisdiction of the Secret Committee were somewhat enlarged. Previously to 1834, the powers of the Board to control the Court were in some measure affected by the double character in which the Company then were with respect to the cases which were commercial as distinguished from those which were territorial. But since 1834, the trade having ceased, the whole of the acts of the Court of Directors have been subject to the control of the Board. The jurisdiction of the Secret Committee, which previously extended to treaties and negotiations with native states and princes in India, was extended so as to include "other states and princes." Then, previously to 1834, the Court of Directors were allowed to grant gratuities of 600*l.* and annuities of 200*l.* without control on the part of the Board. The Board now control all money grants. The only other change affecting the Court of Directors made by the Act of 1834, was that it gave a power, in cases in which the Court might question the legality of any orders given to them by the Board of Commissioners, to draw up a case, stating the particulars, and to submit it to three Judges of the Court of Queen's Bench, whose decision is final. There has been no occasion to exercise that power since it was given.

173. That power was given in 1834?

Yes, and still remains.

174. What powers do the Court of Proprietors now possess?

They have the power, as the Committee are aware, of electing the Directors. They may make bye-laws, which are binding upon the Court of Directors, provided they are not inconsistent with the statute law. They may themselves grant sums of money, which grants are subject to control on the part of the Board. They may also control grants of money proposed by the Court of Directors, to an extent exceeding 600*l.* or 200*l.* a year to one person, which grants are also subject to the control of the Board. The General Court of Proprietors may also call for any papers that are in the custody of the Court of Directors; and if they pass a resolution ordering the production of those papers, they must be produced, and the Board have no power to prevent it. The General Court may also meet to discuss questions connected with the government of India, and they may pass resolutions of approval or condemnation in recommendation upon those subjects to the Court of Directors.

175. You have stated that the Court of Directors divide themselves into Committees; will you state what those Committees are?

There are three Committees: the Finance and Home, the Political and Military, and the Revenue and Judicial; and the functions of those Committees are to regulate the correspondence upon the several subjects designated by those titles.

176. You have mentioned the Secret Committee; how is that formed?

The Secret Committee is formed of three Directors, and generally consists of the Chairman, the Deputy Chairman and the senior member of the Court. The Secret Committee is purely ministerial; it receives despatches from India, and sends

sends despatches to India. But the despatches received are sent to the Board of Control, and the despatches sent emanate from that Board.

177. Has not the Secret Committee the power of remonstrance?
The Secret Committee has no power of remonstrance given to it by Parliament.

178. Do you mean to say, that, practically, they do abstain from making representations upon the subjects that come before them?
The members of the Secret Committee, if they see anything important in the proceedings, may address a letter upon the subject to the President of the Board. The Act of Parliament gives to the Court of Directors, in cases of difference with the Board upon public matters, the power of remonstrance, but it does not give that power to the Secret Committee.

179. In the case of the remonstrance made on the part of Directors not being acquiesced in by the Board, what course can the Court of Directors pursue?
If the orders are consistent with the law, the Court of Directors have no alternative but to obey.

180. Have they any power of protesting?
The General Court, after 1834, passed a bye-law, which requires, that whenever the Court of Directors see fit to pass a resolution of protest against any order given to them by the Board of Commissioners which they think calculated to lead to evil, that resolution of protest shall be laid before the next General Court.

181. Have the General Court the power to make such a bye-law?
Yes, I apprehend they had.

182. Have they the power to make such a bye-law with regard to the proceedings between the Secret Committee and the Board of Control?
Certainly not. The proceedings of the Secret Committee are not in the possession of the Court of Directors, and, therefore, the Court of Directors could not produce them.

183. You made use of the phrase, that the Court of Proprietors could call for any papers that were in the custody of the Court of Directors; are the papers belonging to the Secret Committee in any other custody?
They are in the custody of the Secret Committee only, and they cannot be disclosed without the consent of the Board of Commissioners.

184. The Committee understand that the Board of Control has the power to order any proceedings to take place, and any despatches to be sent out, as they may think right; is that order communicated to the Court of Directors?
The Board of Commissioners make what alterations they think fit in the despatches proposed by the Court of Directors, and the Court of Directors, upon receiving those alterations, may, within 14 days, address a remonstrance to the Board of Commissioners. The Board of Commissioners may answer that remonstrance as soon as they please; and whenever they answer it, their order is final.

185. The delay, therefore, that may take place is 14 days?
The power to remonstrate may cause a delay of 14 days.

186. What is the law with reference to the transmission of despatches to the Board of Control?
The law requires that every despatch from India shall be immediately sent to the Board, the Court of Directors having also a copy themselves. It rests with the Court of Directors then to prepare a reply to that despatch. The course is for the Chairman and Deputy Chairman first to frame the draft of a reply.

187. What is the law with respect to despatches going to India?
The Court of Directors having transmitted to the Board of Commissioners a draft of the proposed despatch to India, the Board of Commissioners are required within two months to return it, either approved or altered; and if altered, to state their reasons at large for the alteration.

188. For each alteration?
For each alteration. The Court of Directors then take into consideration those alterations, and, as I have before stated, 14 days is allowed to them to remonstrate, if they think fit, against the alterations. The Board of Commissioners,

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after receiving the remonstrance, give the final orders; and the Court of Directors are then required to despatch the letter to India. In the event of the Court of Directors, in the opinion of the Board, neglecting any subject, or the Board seeing occasion to treat any subject connected with India which the Court of Directors have not brought before them, the Board may write to the Court, and call their attention to the circumstance, and desire them to prepare a despatch. If the Court of Directors fail to prepare such a despatch within 14 days, then the Board of Commissioners may themselves write a despatch, and send it to the Court to be transmitted to India. This is the only case in which the Board of Commissioners have the initiative with respect to despatches to India.

189. Having stated what the law is, will you now state what is the practice?
The practice is for the Chairman and Deputy Chairman, in the first instance, to prepare a draft of a despatch, and to send it in what is called "previous communication" to the President of the Board; and the President of the Board in due time returns that previous communication, with his observations upon it. The Chairman and Deputy Chairman then either adopt the alterations wholly or partially, or reject them; and in the state in which they finally approve the draft, it is submitted to the Committee to which it belongs. The Committee alter it if they think fit, and send it to the Court of Directors; the Court of Directors then consider it, and after they have approved it, it goes to the Board officially; and then the Board deal with it in the manner which I have explained.

190. That practice was adopted with the view of saving time?
It was to establish a system of friendly communication, and to avoid collision.

191. Do you consider that the Court of Directors possess any real power?
Yes, I think they do possess considerable power; they have the initiative in the preparation of all despatches to India; which rule is proved by the exceptional case which I have stated of the Board's power themselves to write, if after 14 days' notice the Court neglect to do so. The Court have also the initiative in money grants, the Board having the power to say "No" to any grant, to refuse any grant, but having no power to propose or increase, but, on the contrary, being prohibited from proposing or increasing any grant.

192. You are speaking of grants in England only?
Grants in India as well as in England, when they are treated of in the correspondence with India. The Court have also the absolute right of patronage to offices in the case of all persons upon their first appointment to the service. With these privileges, I cannot but consider that the Court in whom the government of India is vested, subject to the control of the Board, have still great power.

193. Can you state what the amount of patronage is, and in whom it is vested?
I presume this question refers to the home patronage: since the Act of 1834 there have been 642 civil appointments, 5,146 cadetships, 798 medical appointments of assistant surgeons, and 168 Indian navy appointments; the average has been 35 civil appointments, 286 cadetships, 44 assistant surgeons, and nine Indian navy appointments.

194. In whom is that patronage vested?
When the number of appointments to be made in the year is determined upon, that number is divided into 28 portions. Two of those portions go to the Chairman, two to the Deputy Chairman, one to each of the other 22 Directors, and two to the President of the India Board.

195. Is that exercise of patronage by the President of the Board of Control a matter of right, or a matter of favour?
It is a matter of courtesy.

196. Are the civil, military and medical appointments all grouped together, so as to make one gross number of appointments?
No, they are separated; and the division and allotments are of each class.

197. You have stated that the Court of Directors have power of making the first appointments; have they any power over the subsequent promotions, and if so, in what instances?
They have the power of appointing general officers on the staff for the Company's

pany's army, the superintendent of the Indian navy, and the masters attendant in Bengal and at Madras, and volunteers for the pilot service; they have also the power of appointing the law officers of the Government for each of the Presidencies, and chaplains to India; with those exceptions, the Court are precluded from interfering with appointments or promotions in India, except in any case in which they, with the Commissioners for the Affairs of India concurring, may think it necessary to interfere.

198. Have they not the power to appoint members of Council?
Yes, clearly they have the power to appoint the Governors, subject to the approbation of the Crown, and members of Council absolutely, except the Legislative Councillor, whose appointment must also be approved by the Crown.

199. Do not the Court of Directors sometimes make special appointments in India; for instance, were there not some officers sent out to superintend the cotton cultivation?
Planters were obtained from America, in view to improve and extend cotton cultivation in India, and they were sent out from England in charge of an officer belonging to the Indian service; that was an exceptional case; there are also the assay-masters of the Mints, who are generally, but not always, selected from the services in India: they are appointed from this country, because it is necessary that they should qualify at the Royal Mint, or some other establishment for assaying in this country, so as to be able to produce proofs of competency for the office.

200. Then there are certain exceptional cases besides those that you have named, in which the Court of Directors do promote officers in India?
Occasionally; but I do not consider them as interfering with the general rule, which leaves all vacancies to be supplied by the local government, with the exceptions which have been stated.

201. In the case of the dismissal of any officer by the Indian Government, have the Court of Directors the power to order his reinstatement?
They have power to reinstate any officer, subject to the approval of the Board.

202. Do they frequently exercise that power?
Occasionally, but not frequently.

203. But in those cases the consent of the Board of Control is requisite?
It is.

204. In the cases of other minor appointments they appoint without reference to the Board?
They do.

205. In your enumeration of the powers of the Directors, you omitted to name that of appointing the Governor-general?
The Court of Directors have the power of naming persons for the high offices of Governor-general, Governors, Commanders-in-chief and Legislative Members of Council; all which appointments require the sanction of the Crown to give them validity, and that sanction is countersigned by the President of the Board.

206. In the event of a nomination by the Court of Directors in which the Board of Control did not coincide, what would be the course pursued?
If the Court of Directors make a nomination to one of those offices, and receive a communication in reply that Her Majesty has not been pleased to approve of it, they must proceed to make another nomination.

207. In the event of the nomination of the Court of Directors not being agreed to by the Board of Control, what is the next step taken?
The Directors are required to make another nomination.

208. To what extent does that proceed; how long is that to go on?
Practically, it never goes on beyond the period of two months; at the expiration of two months from the notification of the vacancy, if it has not been filled up by nomination on the part of the Court of Directors, then the Crown may appoint; but I apprehend that it would be considered that the Court of Directors had fulfilled their part of the law if they made the nomination within the two

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months; and that if rejected by the Crown, a fresh period of two months would reckon from the date of the rejection.

209. What would be the legal result of this difference with respect to the appointment?

It might lead to an indefinite postponement of the filling up of the appointment; but, practically, it has never done so. In the meanwhile the government by law would devolve on the senior ordinary member of the Council in India, in the case of the Governor-general; and in the case of the governments of Madras and Bombay, upon the senior civil member of the Council.

210. How is it in the case of the army?

In the case of a military appointment not being filled up, the command of the army devolves upon the senior officer.

211. That being the law, will you state what is the practice in this matter?

I think all difficulty as to filling up vacancies in these high offices is obviated by friendly communication between the Chairman and Deputy Chairman and the President of the Board.

212. Has it ever come to your knowledge that there has been any inconvenience resulting from this state of things?

I am not aware of any inconvenience.

213. Do you think that the power of the Secret Committee is merely a ministerial one, which could with advantage be dispensed with?

No; I think that whilst the government of India is with the Company, it is essential that the secret orders should go through members of the direction, who ought to know all that is passing connected with the government of India; besides which, it is important to have the means of knowing that the limits of the Secret Committee are observed; and, further, as the powers of the Secret Committee are occasionally used to direct external operations not immediately affecting the territory of India, such as those connected with the China war, they should have the opportunity of protecting the purse of India by making arrangements with the Queen's Government for a reimbursement of the expense.

214. In the event of any circumstances arising in India, which, in the opinion of the government of India, make it necessary that a letter should be written secretly to the authorities in England, may not the Government in India address such a letter to the Secret Committee?

They have the power, by distinct enactment (33 Geo. 3, c. 52, s. 22) to address despatches to the Secret Committee upon any subjects connected with the government of India that they think right; and the Secret Committee, when they receive such despatches, are bound to send them to the Board of Commissioners for the Affairs of India; but the obligation to secrecy does not extend to any subject not relating to peace or war, or treating or negotiating with native states and princes (*vide* 53 Geo. 3, c. 155, s. 73).

215. Although the Secret Committee cannot, without the consent of the Commissioners, communicate any matter relating to making treaties, or peace or war, may they not communicate, without such consent, any letters relating to any other subject which they think fit?

I think they may do so by law.

216. Are you aware whether such a disclosure, although it might be legally made, ever did take place?

I am not.

217. Can you state, practically, what proportion of the patronage is given to persons who have public claims?

Since the year 1834, more than one-half of the civil appointments have been given to the sons of Indian officers, civil and military. The return for military appointments I have as yet only made out for the last 11 years—that shows a proportion of one-third so given. The remainder have gone to the sons of officers of the royal army and navy, to sons of the clergy, and, generally speaking, to the middle classes in this country.

218. Is any part of the patronage by law reserved to meet such claims?

There is not.

219. Is

219. Is this patronage exercised under certain regulations?
It is.

220. Could you put in a copy of the regulations under which the patronage is distributed?
I will do so.

221. Has not an appeal been made to the authorities here to reserve a portion of the patronage to meet such claims?
Yes; an application has been made to the Company, that a portion of the patronage should be annually allotted as of right to belong to the army, to meet public claims.

222. Do you think that would be advantageous to the service or to the individuals?
Nothing, I think, could be more unreasonable than that any class of Her Majesty's subjects should claim, as of right, to receive certain appointments. It seems to me, also, that it would be very disadvantageous to the service as a body, because any such apportionment would be hardly so great as the proportion now given to the service by the exercise of individual patronage. Directors who now feel a moral obligation to provide for those claims would consider themselves relieved from any such obligation if a portion of the patronage were reserved for the purpose. Besides which, the difficulty of allotting the reserved patronage among the claimants would, I fear, give rise to great jealousies and heart-burnings.

223. Do you think it essential that the patronage should remain as at present?
Yes, I think so. It strikes me that a body like the Court of Directors, acting in this country, requires all the aids that can be given to it, to enable it to maintain its position in the eye of the public, and in that point of view the possession of the patronage seems to me to be indispensable. Besides which, it keeps up sympathy between the persons entrusted with a share in the government of India, and the persons in India who are discharging important duties there, and that sympathy and communication seems to me to be calculated to be of great service to the Court of Directors.

224. Are you of opinion that some such appointments should be attached to certain high degrees of scholarship at the Indian Colleges as prizes?
That has been tried occasionally. Individuals having appointments have, I believe, offered them as prizes.

225. With any beneficial result?
I think the result must be beneficial.

226. The servants of the Company are divided into two classes, "covenanted" and "uncovenanted;" will you have the goodness to state the distinction between those two classes?
Civil servants, upon their first appointment, enter into covenants with the East India Company; it is an old practice. The conditions of those covenants are very general: that they shall obey all orders; that they shall discharge all debts; and that they shall treat the natives of India well. That gives the title "covenanted" to the regular civil servants of the Company. The duties entrusted to those servants are of a high character generally. Other offices in India, including those of clerks, are filled by other persons nominated by local authority, and those persons are called "uncovenanted." They are taken either from Europeans not already in the service, from the half-caste population, or from natives. That is the distinction between "covenanted" and "uncovenanted."

227. Is there any disqualification on the part of the uncovenanted servants from holding those higher offices?
Since 1834, many important duties which had previously been confided to covenanted civilians, especially in the Judicial Department, have been confided to natives.

228. Are those appointments under Clause 87 of the last Act?
I am not aware that there was anything in the former Act which would have precluded

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precluded those appointments. Clause 87 prohibits any disabilities in respect of religion, colour, or place of birth.

229. Can you give some instances of those appointments of natives?
A list of them can be laid before the Committee.

230. The military do not enter into the class of covenanted servants?
They do not.

231. Does any disqualification exist for their holding those higher appointments?
The government of India may select military officers to hold civil appointments; and political offices are frequently so held.

232. Are the uncovenanted servants appointed by the home government, or by the local government?
They are appointed by the local government.

233. In all cases?
In all cases.

234. You spoke of there having been, within the last few years, only one Director elected who was not connected with India; will you state how many Directors have been elected who have not resided in India?
I can give your Lordships an analysis of the Court of Directors in 1833 and in 1852:

	1833.	1852.
Retired civil and law officers - - - -	10	11
Retired military officers - - - - -	4	7
Retired commanders of East India ships - -	5	3
Other persons who had resided in India - -	1	3
London merchants and bankers and others who have not resided in India - - - - - -	10	6

235. How are bankers connected with India?
I never stated them as connected with India. The analysis which I have made is not of the Court as elected since 1833, but as then and now constituted.

236. You stated that no question in dispute as to the law between the Court and the Board had ever been referred, according to the Act, to three Judges: have any questions as to the law been referred to the legal officers of the respective authorities?
There have been repeated references of that kind.

237. And the Court and the Board have agreed to accept a joint opinion?
That has been the case occasionally.

238. For instance, as to the power of the Board over payments made out of the Home Treasury, has any question been put upon that point to the law officers?
I am not aware that any such question has arisen. There never has been a doubt raised of the power of the Board to control the Court in making payments from the Home Treasury. There was a question as to the power of the Board to expend money through the Secret Committee, without the concurrence of the Court.

239. What is the usual number of persons present at meetings of the Court of Proprietors?
Generally speaking, the attendance has been very small. There is no quorum of the Court of Proprietors; I wish there was.

240. If they divide, can proxies be immediately called for?
Proxies are not available, except in voting for the election of Directors.

241. Not upon any other question?
No.

242. How are the three Committees which you have mentioned formed?
They are formed at the first Court of Directors after every annual election. There are three Committees; the three senior Directors are taken and appointed one

one to each; and the whole Court is gone through in the same way; and when the Committee is so struck, it is open to the Court of Directors, among themselves, to effect exchanges from one Committee to another, provided they do so within a week.

243. So that, according to that rule, it might happen that persons might be put upon the Military and Political Committee, for instance, who knew nothing about politics or war?

It never does so happen, because a disposition to exchange is manifested by the individual Directors conversant with particular departments. A political man will like to get into the political, and a financial man into the Financial Committee; and so the system of exchange works to bring about Committees conversant with the business.

244. Are the Committees practically formed, at the present time, of persons generally conversant with the subjects that come before the Committees to which they belong?

I think they are.

245. May the three Directors who are put at the head of the three Committees exchange also?

They may.

246. What is the manner in which the letters received from those several Committees are written; do the Committee elect one of their number to write the letter?

No; the letters are generally written by an officer of the Home Establishment in charge of the department to which the subject relates.

247. Then, in point of fact, the clerks have the initiative of writing the letters?

No, they have not the initiative; it is the duty of the officers to go to the Chairman, and take his instructions as to what the tenor of the letter should be, and then to draft it.

248. To the Chairman of each Committee?

The Chairman of the Court, who is the Chairman of all Committees.

249. Is there any record kept of the person who has actually drafted the letter?

There is no record kept, but it is always known.

250. Is there any initial put at the bottom of the draft to show the officer who has prepared it?

No; the writer of the draft generally puts his name in pencil upon it, in order that the Chairman, in looking over papers, may know to whom to send for explanation.

251. Do you mean to say that, in point of fact, the Chairman gives verbal or written instructions to the clerk in what sense he shall draw the letter?

Upon all important questions he does so; as to mere routine questions, of course not.

252. Are the memoranda preserved as the authority for writing the letter in the particular sense in which it was written?

The communication between the Chairman and the officer is generally oral.

253. Would it be possible to have satisfactory oral communication as to the substance of letters relating, as many of them do, to a great many very important and extensive subjects?

Yes, perfectly possible: the officer goes to the Chairman with the memorandum upon the subject, and says, "What do you think of it; will you tell me the view I am to take of this matter?"

254. Does the memorandum state only the facts of the case?

The memorandum states only the facts of the case.

255. It is a short memorandum, stating all the facts of the case?

All the facts.

256. And thereupon the clerk writes the letter?

Having received the Chairman's instructions, he writes the letter.

 257. And

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257. And he submits that letter to the Chairman, and the Chairman makes what alterations he pleases; and when so altered, it is submitted to the Board in "previous communication"?
That is the case with respect to drafts for India, and, generally speaking, to all important matters in "previous communications."

258. The previous communications do not go to the respective Committees before going to the Board, do they?
No; they are known only to the Chairman and Deputy Chairman, and the President of the Board.

259. Was it not formerly generally understood, that when the Chairman and Deputy Chairman had agreed upon any point, it was expedient that the Court should support the Chairs?
No, I think not. I have had the experience of 40 years now in that Court, being present at all the meetings, and during that time I have witnessed innumerable instances in which the Chairs have not been supported by the members of the Court.

260. After communication with the Board?
The Court know nothing of the previous communication with the Board.

261. But when a matter is laid before the Court by the Chairman, must not the Court pretty well understand that he has communicated with the Board of Control upon the subject?
But the Court exercise their own judgment.

262. Do not you think that, of late years, the Court have exercised their own judgment much more extensively in contradiction to the Chairs than they used to do?
I think that they have paid infinitely more attention to the administration of India than they used to do, when they were encumbered with a great trade.

263. It has, in point of fact, made a great revolution in the conduct of the business?
I think it has effected a visible improvement.

264. You have given some evidence as to the legal power of protest which is possessed by the Court; do you happen to know whether the Court ever protested against the Afghan war?
No, they never did; but they have applied to the government of the country for reimbursement of a portion of the expenses of that war, upon the ground that its objects were at least partially European.

265. But not upon the ground that they entertained or stated any objection to it?
They have not so said.

266. Then, when you observed the other day that the Company would have had 30,000,000 *l.* more if they had not gone to war, you did not mean to infer that they had gone to war contrary to their own wishes?
I did not mean to make any statement upon the subject.

267. But merely to record a fact?
Merely to record a financial fact.

268. Are you able to state where any prohibition is to be found against the Court of Directors making any appointments in India, except the first?
I refer to the Act of the 53 Geo. 3, c. 155, s. 81.

269. There was some evidence given before the former Committee as to the number of despatches in which the opinion of the Court of Directors had been finally overruled by directions from the Board of Control, as compared with a great number of despatches issued which were not altered under the direction of the Board; can you give that information now, so as to show how far, practically, the opinion of the Court of Directors is overruled by the Board of Control?
I have ascertained that of the "P. C." drafts, the drafts which go through previous communication, more than one-half are returned unaltered, and a very large proportion of the remainder is returned with alterations, generally only verbal, or with corrections of facts and figures.

270. Can you give the Committee a return of the number of cases in which, before they come to the state of "P. C." drafts, the opinion of the Court of Directors has been overruled by the Board of Control?

The opinion of the Court of Directors does not arise in the "P. C." drafts. I was proceeding to say, that of the drafts which go out of the state of "P. C." into that of official communications, five per cent. is the proportion of those in which any alteration takes place at the Board.

271. Have there been many cases since 1834, in which the Court of Directors have protested against the orders which they have received from the Board of Control?

There has not been a single instance in which the Court of Directors, as a body, have protested. There have been many cases in which individual Directors have dissented from the act of the majority of the Court upon the subjects of despatches, and have recorded their dissent, which they have the privilege of doing; a copy of these dissents always go to the Board.

272. Have not the Board of Control the power of sending any despatch, which might in the first instance be declined by the Court of Directors, by means of a mandamus?

A mandamus is merely the means by which obedience to the law is forced on the Court of Directors.

273. They have never had occasion to resort to that means?

Not since 1834.

274. You have spoken of the restrictions under which the Directors exercise their patronage; are there in most cases restrictions as to the persons appointed passing through certain colleges, and succeeding in certain examinations?

Yes, there are.

275. Is there not a certain class of appointments not subject to those examinations, commonly called "direct appointments"?

Direct cadets are now subject to examination. Since the Commander-in-Chief has established a system of examination for officers of the Royal Army, the Court of Directors have done the same with respect to cadets to be admitted to their service.

276. Previously to that alteration, there had been a door opened by which those direct appointments were exempted?

Previously to that alteration, there was no examination of direct cadets.

277. Were those a large proportion in the whole?

The direct cadets were the largest proportion.

278. Are you of opinion that it would be expedient, in any proportion, to allow the sale of commissions in the army on original appointment, or the sale of civil appointments in India under any regulations?

The object of the Court of Directors has been always to prevent sales, and there is a very strict Act of Parliament for that purpose (49 Geo. 3, c. 126). I believe that sales of appointments for the public service have never been resorted to by the Government of this country; and, as respects the Company's service, the practice would be distinctly opposed to the express enactments of the Legislature. I think that such a proposition would be opposed to obvious considerations of policy, because its tendency must be to weaken the obligations of duty. A Government which sells its offices must not be surprised if some of the purchasers deem it legitimate to make more of their appointments than the authorized emoluments; its tendency also, it seems to me, would be to weaken the bonds of subordination: a man who has paid the Government for his office is not so likely to yield implicit obedience as one who has obtained it by an act of grace or favour; and further, to require a man to purchase from the Government an office or employment is virtually to reduce the salary or allowances of his appointment; and if the Government requires such a reduction to be made, it would be preferable, I think, to reduce the allowances directly, so that all men in the service would be placed upon an equal footing.

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279. Do you apply those observations to the purchase of commissions by officers in Her Majesty's service; do you think that the purchase of commissions has injuriously affected their conduct?

I am aware that commissions in the army are sold, and are obtained by purchase; but all commissions are granted by the Crown, and are conferred gratuitously so far as the Crown is concerned. The Crown requires certain services to be performed, and assigns certain remuneration for their due performance; but it never requires that the individual shall purchase the privilege of being so employed; even the fees on commissions which used to be exacted have been abolished. I am aware that there is a usage from time immemorial for the Crown to permit officers in the army to sell their commissions; and, in consequence, a large number of persons purchase into the army, and purchase promotion in it; but the Crown, I believe, has nothing further to do with it than to see that the rules for making such arrangements between one officer and another are duly maintained.

280. Upon the supposition that allowing parties to purchase commissions in India would have the effect of opening the door to the selection of a large class not immediately and directly connected in interest with the Court of Directors, do you think it would be expedient, under these circumstances, that there should be any mode open to the public of obtaining appointments in India other than at present exists?

I do not; I think the present arrangement is essential to the present system of government.

281. You said that appointments in India have been occasionally given to the most eminent scholars at the Colleges of Haileybury and Addiscombe; in what way has that been done?

It has not been at Haileybury; but certain appointments have been given by individuals to public institutions and schools as prizes.

282. You stated that two shares out of the 28 of patronage which are usually placed in the hands of the President of the Board of Control, are given to him only by courtesy; do you know any instance in which the ordinary amount of patronage has been withheld from the President?

No; the practice is uniform.

283. With whom would the power of withholding it rest, in case there was a wish to do so?

With the Court of Directors.

284. Was it not an arrangement made between the first Lord Melville and the Court of Directors?

We have no record of that; it commenced about that time.

285. Do you conceive that advantage arises from the discussion of Indian subjects in the Court of Proprietors?

I think there is an advantage in it; the Court of Proprietors affords a vent for grievances, real or supposed, which would seek vent in Parliament or elsewhere, if it were not for that Court.

286. Is there not advantage in having a sort of public tribunal, before which Indian subjects are discussed, which is separate from the great arena of party politics in Parliament?

I think there is an advantage in that; but I wish the Court of Proprietors could be better regulated, so as to prevent what I have frequently seen, a very small number of Proprietors, perhaps four or five, or not more than ten, keeping the Chairman and Directors sitting there many hours upon useless debates: I think a quorum would be an exceedingly useful arrangement.

287. How often do the Court of Proprietors meet?

They meet every three months, and they may meet as often as a requisition comes, signed by nine proprietors.

288. Do you conceive that the reports of those discussions in the public journals tend to keep the public mind in England acquainted with a number of Indian subjects in a manner very important for the interests of India, the difficulty always

always being to interest the mother country in the concerns of any distant dependency?

I think so.

289. Which could otherwise only be done by occupying the time of Parliament with discussions for which it had no taste or leisure?

Exactly so.

290. Do you think that the discussions of Indian subjects in the House of Commons, at the time when they took place, had any salutary effect upon the conduct of the Indian finances?

I have never heard that the Indian budget debates in Parliament were attended with much benefit.

291. Is any qualification necessary, in point of amount of stock, to enable a person to attend the Court and speak as a Proprietor?

A Proprietor of 500 *l.* stock has the power of attending and speaking.

292. And vote?

Nobody can vote who has less than 1,000 *l.* stock.

293. For any proposition?

For any proposition.

294. You have stated that a considerable portion of the patronage of India is given to the middle classes; do you think that the middle classes would be as well contented if the patronage were in the power of the Crown, to be given to persons connected with the Government of the day in politics?

I think not.

295. Are you of opinion, from what you have heard of what passes in India, that anything like party feeling prevails amongst the civil and military officers in India?

There does not.

296. Do you believe that there is less of party politics in India than in any other part of Her Majesty's empire?

I do.

297. That is the effect of the mode in which the patronage is now carried on?

That is my opinion.

298. Do you think that any improvement could be made in the constitution of the Court of Proprietors, with a view to making it a better field for the discussion of Indian subjects?

I think not, except by requiring a quorum.

299. What would be your opinion of adding to it all the civil and military servants upon their return to England, without requiring them to possess a pecuniary interest in East India stock?

I think there would be great difficulty in any such arrangement. There are now, I believe, in this country upwards of 1,600 persons, including those on furlough, who have been in the service in India 10 years and upwards.

300. Supposing you took either a certain length of service, or the fulfilment of certain duties, as entitling to a vote in the Court of Proprietors, would you not get a much more enlightened and independent body of Proprietors, which would be likely to exercise a much more useful influence over the public mind with reference to Indian affairs, and at the same time give to the civil and military servants of the East India Company, on their return to England, an opportunity of becoming known to the Proprietors, without the necessity of an individual and personal canvass?

But I doubt the expediency of giving the privilege of debate and discussion to retired officers, merely upon the ground of their having been servants of the Company.

301. Is not the necessity of canvass in itself now a matter of considerable inconvenience in the choice of Directors?

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That inconvenience would be considerably increased if the number of voters were enlarged; I think the inconvenience of canvass has been overrated.

302. Are there not two inconveniences attending it; is not one, that there is considerable expense; and is not the other, that it involves considerable delay; so that a person is not able to get upon the direction until some years after his return from India?

There is certainly some expense incurred. With respect to the delay, I presume the question refers to candidates of peculiar ability and qualifications. That evil has, I think, been somewhat exaggerated. I remember the late Mr. Wynne stated, during the discussions upon the arrangements of 1834, that Mr. Bayley, a distinguished Indian servant, then a candidate, would have to wait many years before he was elected. I find that Mr. Bayley was elected, other candidates giving way on account of his peculiar qualifications, before his furlough of three years had expired.

303. Do you recollect many instances in which persons, on account of their superior qualifications, have, upon their first offering themselves as candidates for the direction, been elected in preference to others who had been long in the field?

Not many; the cases are rare of men who have held the highest offices in India offering themselves as candidates. The late Mr. Edmonstone was another example of a very distinguished man elected soon after return. The objection to a canvass has rather prevented eminent men from coming forward; and in that way its tendency may have been injurious.

304. Will you state what you consider to be the advantages attending the present system of rotation, by which the Directors, without any reference to their merits, periodically go out of the direction?

My own opinion is (there is, however, a difference of opinion upon the subject), that it is a bad arrangement, that it breaks the chain of connexion in business, and that a Director, when he comes back after being re-elected, has to read up all that has passed during the year of his absence; and it strikes me that the advantage of giving the Proprietors a control over the Directors would be equally obtained if the persons going out were eligible to be re-elected on the same day.

305. The Proprietors of East India stock are not, of necessity, men who keep their eyes much bent upon the administration of Indian affairs, are they?

I think not. But there has been a tendency, since 1834, on the part of persons connected with India, on coming from India, to invest in East India stock.

306. So that, practically, the proprietors of East India stock, the electors, are themselves personally acquainted, in some degree, with the qualifications of those whom they have to elect?

Many of them are.

307. But there are a great number who have not had those opportunities?

Yes, and they derive their knowledge from others.

308. In what way does a common Proprietor of East India stock become acquainted with the peculiar qualifications of a person who has been concerned in the administration of the affairs of India, either as a Member of Council at one of the Presidencies, or as a chief Collector somewhere?

The candidate very frequently circulates his documents and the testmonials of approbation which he has received from the local Governors, or from the East India Company.

309. Is not a knowledge of personal qualifications, independently of such formal testimonials as to the candidate having filled certain offices, of very high importance in choosing persons to administer public affairs?

I think so.

310. Do not you conceive, that if in the body of the Proprietors of stock there were a large infusion of persons who had actually been in India, you would get greater security for persons of real eminence in East India being chosen as Directors?

I have thought a great deal about it, and I doubt whether, by any system of election,

election, we should get a body better qualified to do good service than the Court of Directors as now elected, not exclusively Indian in its composition, but with a large proportion of members who have been in India.

311. What is the usual interval within which a person returning from India can hope to come upon the direction?

It depends very much upon circumstances. It depends upon the number of candidates and the number of vacancies; it is very often four or five or six years.

312. Does not it very much impair his fitness for the direction that so long an interval should take place between his connexion with the country and his taking share in its administration at home?

It certainly impairs it.

313. Then any means that could be adopted for the purpose of obviating that would be of service?

Provided it were not accompanied by any countervailing evil.

314. By the 27th section of the last Charter Act, you are aware that Proprietors are allowed to vote by attorney in the election of Directors under certain circumstances: does that clause give the power to Proprietors resident in India to vote?

No; it distinctly provides that the power of attorney must be executed within 10 days of the election.

315. Is not the effect of that either to discourage the acquisition of a qualifying amount of stock by persons resident in India, or, if they possess it, to deprive them of the power which, if they were resident in England, they would have of expressing their opinion in the selection of Directors for the home government?

They have not the power. But that clause was an enlargement of the previous power of the Proprietors.

316. Should you see any practical objection, taking into account the rapid communication now between India and Europe, and taking into account also the length of time at which the election of a Director takes place after his first candidateship, to allowing to qualified Proprietors in India the same privilege of voting by power of attorney that is exercised by residents in the North of Scotland or the West of Ireland, or any other part of our European dominions?

We have already felt some inconvenience. I know a case in which a dead man has been polled; and I fear we should have many cases of that kind.

317. Is that the only objection?

I do not at present see any objection in principle, merely on account of non-residence in Europe.

318. Do not you think that if the obvious difficulties of ascertaining the right of voting could be overcome, a Proprietor of East India stock in India has as just a claim to vote for a Director of the East India Company as a Proprietor of stock in England?

If we were forming a new body to elect, I think so.

319. When we are giving constitutions to the very smallest of the colonies of the Crown, with the general approval of the whole country, and are precluded by the peculiar circumstances of India from giving to that great empire a constitution in India itself, ought we not to endeavour, if possible, to give to it something resembling a constitution in this country, by improving the constituency, by which either the Court of Directors, or any body substituted for that Court with somewhat similar powers, is to be elected?

I think the great object of any constituent body for the election of the Directors is to provide as good an instrument as possible for the government of India, and for the promotion of the happiness of the people of that country. As I said before, I do not think that any system of election, or any extension of the present franchise, would provide for that object better than the present.

320. The discussions in the Court of Proprietors, as now constituted, certainly have little, or, it may be said, no effect whatever upon public opinion; but would that be the case if the Court of Proprietors were largely increased in number,

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and composed, to a very considerable extent, of persons well conversant with the affairs of India by service in that country?

If the Court of Proprietors were improved, of course it would raise them in public estimation.

321. Do you not think that the addition to the present Court of Proprietors of a body of persons, equal in number and well conversant with India, would very materially add to the influence of the Court of Proprietors in public opinion?

I doubt it very much, if they were all from the class of retired servants, or servants on furlough; I think you would have these servants swamping the Proprietors.

322. You have stated your objection to the present system of rotation, and you have suggested the remedy of immediate re-election; in what manner would that remedy bear upon the number of the Court of Directors; would you suggest that it should in future comprise six additional members, or that the number should be reduced by degrees?

It should be reduced by degrees.

323. In point of fact, by the system of rotation, is not the Court at present deprived of the services of its late Chairman?

That is the case.

324. The person who naturally during the last year has had the principal share in conducting the business of the Court?

Yes.

325. Would it not be an advantage to make some provision for the periodical relief of the Court of Directors?

I think not.

326. What would be the effect of a provision that one of the six Directors going out by rotation annually should not be re-eligible, so that one should necessarily go out every year?

I do not see who is to decide which one is to go out.

327. Supposing the Court of Proprietors to decide that?

The mode in which the change might be effected would require much consideration.

328. What is meant by a Secret Court of Directors?

It is merely the Court of Directors determining to make itself secret; it is imposing upon the individual members of the Court a greater necessity for secrecy than they might otherwise feel: the clerks not sworn to secrecy leave the room on the Chairman saying, "It is a Secret Court."

329. Is it understood to impose an absolute necessity of secrecy, similar to that which is imposed by honour upon the members of the Government?

Yes, I think so.

330. In your experience, do you see any great advantage, since the alteration in this respect, from the frequent meetings of the Court of Proprietors?

No. I think it desirable that they should have opportunities of meeting. As I said before, it affords a sort of safety-valve.

331. Do you think it would be advisable to make some sort of arrangement or regulation, by which, when the Proprietors do meet, they should meet in greater numbers, so as to secure a better bearing or a better discussion of the subjects brought before them than at present?

I think so, decidedly.

332. Would you have any objection to such an arrangement as this: that no Court of Proprietors should proceed to business, unless 40 members of the Court of Proprietors were present?

Forty is a large number. I think 40, including the Directors, would be sufficient; but it should be a certain number, excluding the Directors; perhaps 30 would be proper.

333. Do you see any objection to such an arrangement?

No; I think it would be advantageous.

334. Do not many of the meetings of the Court of Proprietors, reported in the daily papers, consist of a much smaller number than that?
They do. Nine Proprietors may convene a General Court; but it is not necessary that those nine should be present at the meeting which they have themselves convened; only two of them, or one of them, or none of them may be present.

335. There is no quorum at all?
No quorum.

336. Practically, have those meetings of Proprietors which have discussed grave questions consisted of very small numbers?
They have.

337. What has been the smallest number that you have seen?
I have seen four or five Proprietors sitting, and one person speaking, and staying till 12 o'clock at night.

338. Can they adjourn till the next day?
They can.

339. Have the Proprietors assembled in Court, in fact, any substantive power with reference to the government of India?
They have not. They are prohibited by law from altering or rescinding any resolution of the Court of Directors touching the government of India, after the Board have approved of it.

340. What is the nature and extent of the bye-laws which they may enact?
They may pass any bye-law that is not repugnant to the statute law.

341. Do those laws bind the Court of Directors?
They do bind the Court of Directors, but the Court of Directors exercise an influence in the Court of Proprietors, and take care that no law that is likely to be inconvenient shall be framed, and if inconvenience is found from any existing law, that a proceeding is originated in the Court of Proprietors for altering it.

342. Then, in fact, the Court of Directors, instead of being controlled by the Court of Proprietors, have the means of controlling the Court of Proprietors?
They have the means, I will not say, of controlling, but of influencing them, and preventing any inconvenient course being taken.

343. They possess the confidence of the Court of Proprietors?
They do.

344. What subjects may those bye-laws take up, and to what extent may they go; may not they affect the whole principle upon which the government of India has been conducted?
No; I think they cannot interfere with the Court of Directors in the regular process of business connected with the government of India.

345. Is it not the fact, that although they cannot legally interfere, every now and then they have attempted to interfere in matters of very considerable political importance?
Yes; they have attempted to interfere by a recommendation to the Court of Directors to place the papers before them previously to their being sent to the Board of Control; but the Court of Directors have refused to do so.

346. Have they not passed a resolution for the production of certain papers which were in fact secret communications between the Commissioners for the Affairs of India and the Court of Directors?
I think not, as no secret papers could be given by the Directors.

347. Has it not happened, that although the Court of Proprietors have called for those papers, the papers have been refused, and have not been given?
Whenever the Court of Proprietors have called for papers, if they are in the custody of the Court of Directors, they must be given.

348. But supposing they are not in the custody of the Court of Directors as a body, but only of the Secret Committee of the Court of Directors?
Then they are refused.

 349. Practically,

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349. Practically, no inconvenience has arisen from this power existing on the part of the Proprietors?

I think not. There was one very strong case when the appointment of Lord Heytesbury was vacated. There was a correspondence on that subject between the Court of Directors and the Board, and the papers were called for by the General Court and given, although I believe, at the same time, they had not been given to Parliament. That is the strongest case that I recollect.

350. In the event of a small Court of Proprietors, such as you have described, deciding upon any important question of that kind, how is the decision by the votes taken?

Either by a show of hands, or, if nine Proprietors present demand it, by ballot.

351. Is that ballot held immediately, or on a subsequent day?

It cannot be held within 24 hours, and it is usually held within a week or 10 days.

352. Is notice given of it, and is the ballot open, not only to those who by the hypothesis have attended the first meeting of the Court of Proprietors, but to all the Proprietors?

It is open to all.

353. Is notice given to them?

Notice is given by public advertisement.

354. May there not be advantages, even without any direct power of action on the part of the Proprietors, in the necessity imposed upon the Directors of appearing before the Court of Proprietors and giving an account of the principles upon which they have acted, and justifying their conduct?

Yes, I think so.

355. Especially when taken in connexion with the rotation system of re-election, cannot you suppose cases in which that previous discussion in the Court of Proprietors might enable the Proprietors to exercise a just and legitimate control over the Directors, either by rejecting or approving, as they thought fit, of their re-election?

Yes, it might; if the candidate showed himself well in the General Court, it might influence votes in his favour.

356. Do not you consider, that the reports in the public papers, of discussions of Indian questions in the Court of Proprietors, although the actual vote may not lead to any immediate result, may have the practical effect of showing what the qualifications of persons are who may be candidates for the office of Director?

It may occasionally have that effect.

357. Is not the probability of being compelled to defend the course pursued by the Court of Directors before an open tribunal, a check upon the Government of the day, which, in fact, is acting through the Directors, as well as upon the Directors themselves?

That was one of the objects of the bye-law, which secures publicity.

358. Therefore, it is in fact rather an appeal to public opinion in a case in which the Government would otherwise be absolute?

That was the intention.

359. Are the Committee to understand, from your former answer with respect to the power of the Court of Proprietors to pass bye-laws, that, practically speaking, they never do so except such bye-laws as may be agreed upon and arranged by the Court of Directors; that, practically speaking, the power of passing bye-laws by the Court of Proprietors is a dead letter?

Practically speaking, they have such confidence in the Court of Directors that they would not pass a bye-law in which that Court did not concur.

360. What were the powers exercised by the Court of Proprietors as far back as the time of Lord Clive?

In the time of Lord Clive they interfered with the appointment of Governor-general. The Proprietors of that day, previously to the organisation of the Board of Control, exercised all the powers which the Court of Directors exercised; they had, by the Charter, the power of the East India Company.

361. That great alteration was made by Mr. Pitt's Act?
Yes, in 1784.

362. And the Court of Proprietors have been nothing ever since?
I can hardly say "nothing," because up to 1834 the East India Company were a commercial body, and the Court of Proprietors were then of more importance than at present.

363. Upon the whole, you think it is still advisable that there should be public meetings of the Court of Proprietors?
Yes; but I am very anxious that more weight shall attach to their discussions, which would be the case if a quorum were established.

364. You stated that the necessity of the initiation of the appointments of the superior officers in India by the Court of Directors had led to no practical inconvenience, because there is always friendly communication between the Chairman and Deputy Chairman of the Court of Directors and the President of the Board of Control; does not that proceed upon the assumption that they would be always upon good terms together?
They are always upon good terms officially; I do not know any instance in which the Chairs were upon such terms with the President of the Board as to interfere with the harmonious management of public questions.

365. But upon the supposition that there was an irreconcilable dispute between the Court and the Board of Control with respect to the appointment of the Governor-general, or any other great officer in India, might it not be possible that by the Court of Directors refusing to name any person, an indefinite postponement might take place, and that, practically, the government of India during that time would be vested in the senior member of Council, or some other officer in India who might be agreeable to the Court, but not agreeable to the Board of Control?
The law would allow of such a result, but the practice has never witnessed it.

366. Do you think that, in the contemplation of the possibility of such a state of things, it would be desirable to introduce any alteration with reference to the power of initiation which at present the Court possess with regard to all appointments in India?
I do not.

367. You were understood to say that you did not know exactly what authority there was which prevents the Court of Directors from making promotions in India, but that, practically, they do not, except in a few cases which you mentioned?
The appointments that they can make are specified in the Act of Parliament; the Act declares that, with certain exceptions, the appointments in India shall be in the hands of the local government, and then it proceeds to name the exceptions; and those exceptions I have mentioned—members of Council, general officers of the divisional staff, law and marine appointments.

368. And you mentioned that the assay-master was specially excepted?
Such appointments have been usually made in this country, for the reason which I have given in answer to a former question.

369. With regard to the appointment of the members of Council, and the other superior officers, is it not the usage to leave that to the Chairman?
No; I have known instances in which the Chairman's recommendation has been overruled. The practice is for the Chairman to lay upon the table a record of the services of three or four persons supposed to be eligible, and then to state that out of those persons he means upon the following Court-day to propose one, whom he names; then the decision of the Court is taken upon that nomination by ballot.

370. And, generally, the recommendation of the Chairman is taken?
It is.

371. It is a matter in which the practice of the Board is not to interfere?
The Board have no power to interfere in the appointment of the members of Council.

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372. What salaries do the Directors receive as Directors?
£. 300 a year to each Director, 500*l.* to the Chairman, and 500*l.* to the Deputy Chairman.

373. Is that a sufficient inducement to them to devote their time to the business?
I should think not; the great personal inducement is the patronage.

374. Besides the inducement of patronage, is there not the inducement of continuing a connexion with a country in which they have been long engaged?
Yes; I think there are even members of the Court who would continue this occupation if no personal advantages were attached to it.

375. What is the Home Establishment now?
There are four distinct departments or offices: the Secretary's, the Examiner's, the Military Secretary's, and the Statistical; there is also a department for the provision and examination of all stores sent to India. The Secretary has a deputy, and there are under him six branches, minuting the correspondence, including the financial correspondence, accounts, pay, audit, marine, and will and administration. At the head of each of those branches is an officer, designated Assistant to the Secretary in that department. The Examiner has three assistants and two clerks, all of whom are exclusively employed in the correspondence, a separate department being assigned to each. The Military Secretary has an assistant, and is charged with the military correspondence. The Statistical Reporter is engaged in collecting information and furnishing returns. In each office there is an establishment of clerks acting under the chiefs and assistants. There are also extra clerks or writers, by whom the business of copying is performed; but many of them are usually or regularly engaged in duties of a higher character.

376. Is there an establishment for the education of persons to be qualified for civil offices?
There is the establishment at Haileybury.

377. How is that constituted?
There are a principal and professors, and a college, in which the young men reside.

378. Are they appointed by the Court of Directors?
The professors are all appointed by the Court of Directors, with the approbation of the Board.

379. Is it necessary that the young men should always pass through that college before obtaining civil appointments?
Yes; the Act of Parliament prescribes a residence of four terms at Haileybury as an indispensable qualification for the civil servants.

380. And a certain mode of examination to be passed through?
The mode of examination is prescribed by the Board of Commissioners, under the authority of Parliament.

381. Without any interference on the part of the Court of Directors?
Without any interference on the part of the Court of Directors; the statutes and regulations of the college are under the control of the Board.

382. You have stated that a candidate for a civil appointment must have passed four terms at Haileybury; how long a time is required for that?
Two years.

383. The course is a very large course, is not it?
It is very comprehensive; it embraces a variety of subjects: European literature, including law, history and political economy; and it embraces also the Oriental languages.

384. You have had, since the institution of Haileybury, very eminent men appointed as professors in your university?
We have.

385. That has been the general impression?
Yes.

386. Are you aware whether the tendency of the examinations at Haileybury has either been to raise the standard of instruction, and consequently the evidence of qualification, or to lower it?
I think to raise it, decidedly; the test has been materially raised since 1834.

387. Practically speaking, are not the results of the examinations made known; and is not the order of acquirement manifested by those results?
Yes, that is the case.

388. With respect to the examinations in law, and viewing them with reference to judicial and magisterial appointments in India, do you conceive that the education in our ordinary universities, the older universities, would furnish the East India Company with the same class of civil servants for legal appointments in India that you acquire at Haileybury?
Not with the same knowledge of law, I should think.

389. Are there not gentlemen who have passed through Haileybury, who have attained a distinguished character for the acquisition of Oriental languages?
Certainly.

390. But do not you know that, in point of fact, many a gentleman who has obtained high distinctions for the acquisition of Oriental languages, has been totally unable to give the smallest instruction to his bearer in going up the country?
I am not aware of that.

391. Does not a considerable portion of the study of Oriental languages at Haileybury consist of the study of Sanscrit?
Yes, that is the case.

392. Has not the study of Oriental languages at Haileybury extended of late rather more into Sanscrit than had been the usage in former times?
I think so; but Professor Wilson considers Sanscrit as important to the languages of the East, as Latin and Greek are to the languages of the West.

393. Is not there a further course of study required on the part of the young civil servants upon their arrival at Calcutta?
There is, in the Oriental languages.

394. How long does that last?
It varies from a period of three months to 18 months or two years, till they pass an examination in two languages.

395. Do you consider that the education in our ordinary universities would give you the same security that you now possess, for their being qualified for that subsequent education in Calcutta?
No; a preliminary knowledge of the native languages must facilitate their passing at Calcutta.

396. How many native languages are there spoken within the Presidency of Madras which it is necessary for a man to acquire?
The necessity is limited to two, viz., Tamil and Teloogoo.

397. How many are there in the province of Tenasserim?
I cannot say.

398. Are you aware whether it is thought that the time of residence at Haileybury is not long enough for the comprehensive range of study that is pursued there?
I have not heard that.

399. Can the time be shortened by any remarkable proficiency?
It cannot.

400. Is it protracted by any want of proficiency?
Yes; there are many instances of the loss of a term through want of proficiency, requiring, therefore, further residence.

401. Is the number of those who are turned back for want of proficiency increasing or diminishing?
I think rather diminishing.

 402. Are

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402. Are there not instances of civil servants who have been sent back from India in consequence of not being able to master the native languages?
There are, but they are of very rare occurrence. If a young civil servant fails to qualify within the prescribed period in India in the Oriental languages, he is generally sent home, and discharged from the service.

403. Is not the interval spent in Calcutta in acquiring the native languages rather injurious to his future prospects?
I have heard it said so, and that it is more desirable that a young man should go up the country and qualify under the superintendence of some superior officer in the service; and that is becoming the practice now.

404. Is there any second examination in India as to their proficiency in the native languages before they are promoted?
Not on promotion; on their first arrival they must qualify; there is no further examination afterwards.

405. Supposing that upon his first examination a young man is found deficient; is there any subsequent examination to prove his acquisition of any of those languages in which he was found deficient?
If he fails in his first examination, he may be examined again and again within 18 months.

406. He is not rejected permanently, but only till he has given proofs of proficiency in the native languages?
That is the case, subject to the limitation of time.

407. But it would not be possible for any civil servant to be appointed to any responsible office in India without possessing a good acquaintance with two native languages?
No.

408. Have you known any instances of persons being rejected or plucked at Haileybury?
I have.

409. Has that occurred from time to time?
It has.

410. Are you aware that there was considerable difference of opinion formerly as to the beneficial results of the institution at Haileybury?
There was.

411. There was a great difference of opinion prevailing even amongst the Court of Directors themselves?
There was; there was even a proposition to abolish the college.

412. Will you state whether that difference of opinion prevails now?
I have not heard any question of late years raised upon the subject, and therefore I am not competent to speak.

413. In your opinion, with reference not only to the intellectual accomplishments of the students, but also to their moral character, and to the general advancement of Indian interests, do you think that the institution is beneficial?
I confess that I think the great advantage of Haileybury is, that it affords an opportunity of acquiring the elements of the Oriental languages.

414. Independently of that advantage which you think is so acquired, are you, on the whole, of opinion that the institution itself works well?
Yes, I think it works well. But I have strong doubts in my own mind, whether the education which an English gentleman receives in this country at the public institutions of this country would not answer quite as well, independently of the Oriental languages.

415. What would you propose as a substitute for the power now exercised, of rejecting a person having a nomination to a writership by reason of his incompetency, as proved by the result of the examination at Haileybury?
I presume that whatever be the system of education, there must be an examination and a test.

416. Formerly at Haileybury there were repeated outrages committed and insurrections in the college. Have you heard lately that the conduct of the students has been generally much improved?
It undoubtedly has greatly improved.

417. Are you of opinion, that if there were equal facilities, either in the London University, or in the other great universities, for obtaining a knowledge of the Oriental languages, the education obtained at those establishments would be equally good for rearing up public servants for the Indian service?
It would be necessary in that case to establish a test by examination.

418. Is there anything in those universities that would give that degree of training that is acquired under the present course at Haileybury, more especially for magisterial appointments by the regular course of lectures on law, and for revenue appointments by the attention paid to economical science?
Law and political economy are most important subjects of instruction for persons destined for the civil service of India.

419. Has not that Chair been filled by some of the most eminent men in science and in literature?
Certainly.

420. At what age do the writers leave Haileybury and go to India?
No person can be admitted into Haileybury until he is 17, and no person can go to India as a writer beyond the age of 23; therefore, you may state the period of leaving Haileybury to vary from 19 to 23.

421. What is your opinion of the expediency of having a double education; that is to say, first the education now required at Haileybury, and then the education which young gentlemen are obliged to go through at Fort William before they can be qualified for employment; does it not appear to you that either the one or the other must be entirely unnecessary; because if they are properly educated at Haileybury, they can hardly require a subsequent education at Fort William; if, on the other hand, they are properly educated at Fort William, they can hardly require the previous education at Haileybury?
I think it would be very desirable to dispense with the residence at Fort William, if it were possible to ensure an adequate amount of qualification by study here; but I fear that is hardly possible.

422. Is it not the case that young gentlemen, who have passed with tolerable credit through the education at Haileybury, when they get to Fort William and have to pass another examination there, after the two years, or whatever the time is, have been found to be incompetent, and have in more than one instance been dismissed for want of competency?
That has been the case, but it is of very rare occurrence.

423. Do you think it probable that, if the education had been entirely confined to Calcutta, you could have relied upon obtaining the instruction of such professors there as you have had in the persons of Sir James Mackintosh, Mr. Malthus and others, who have been your professors at Haileybury?
I thought the former question applied to instruction in the Oriental languages, and I answered it upon that supposition.

424. Is the system which is pursued in Bengal, followed at Madras or Bombay, with reference to the examination of the writers when they come out?
I think it is.

425. Is not a young man arriving at Madras sent up the country to some respectable steady person?
Not always; he may be so, and I think now in Bengal that is the case.

426. When you state that some young men who have passed here have been afterwards found deficient on subsequent examination in Bengal, does that arise from any difference in the system pursued at Haileybury and at Calcutta, or is it that the examination so conducted at Calcutta assumes a more practical shape, with reference to the languages in general use in India, than it does here?
No doubt that is the fact.

 427. Therefore,

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427. Therefore, in point of fact, supposing that to be the case, is not the examination which the young men undergo in Calcutta of more practical utility in their subsequent service than that which they undergo here?

I should think so; because it is in the vernacular languages.

428. Does not the advantage derived from Haileybury, as compared with any other place of education in this country, consist in the fact of the rudiments of the Oriental languages being taught there; and is it not your opinion that it is necessary for a young man to obtain those rudiments before he leaves England, to undergo that further instruction in the native languages which he obtains on arriving in India?

That is the principal advantage, but not the only advantage. There is also the instruction in law and political economy.

429. You have a military establishment of a similar nature at Addiscombe?

There is an establishment at Addiscombe, for the purpose of educating officers for the scientific branches of the army, the engineers and the artillery.

430. The common cadets are not sent there?

No.

431. Are cadets ever allowed to pass through Addiscombe except for the scientific branches?

Yes. Addiscombe accommodates a larger number of cadets than is required for the scientific branches. Those best qualified are chosen first for the engineers, and then for the artillery, and the remainder are allotted to the infantry.

432. Are any cadets sent out in the scientific branches without passing through the college at Addiscombe?

That has happened. When an augmentation has been made to the artillery, and Addiscombe has not been able to furnish the officers required, artillery cadets have been sent out, who have been otherwise qualified: that has happened only upon one occasion since 1834.

433. Even then they had to pass an examination?

Of course they had to pass an examination by the public Examiner of Addiscombe.

434. Practically speaking, is not it considered, that the qualifications required at Addiscombe, above all, for the class who pass into the engineers, are higher qualifications than those which are required at Woolwich?

I am not acquainted with Woolwich; but they are very high qualifications at Addiscombe.

435. Have not many of those young engineer officers who have passed at Addiscombe, when they have reached India, not only advanced themselves in their profession, but shown very high literary and scientific abilities as applicable to other things?

They have.

436. Independently of those two institutions at Haileybury and Addiscombe, is it not the fact that at present nobody is admitted into the military service of the Company without some examination?

That is the case; a system of examination was introduced last year for direct cadets.

437. Do you happen to have a general sketch of the system of examination?

I will deliver it in.

438. What is the expense of Addiscombe?

The payment to the Company is 100*l.* a year; I think the total expenses of a student at Addiscombe may be stated at 120*l.* a year.

439. Was it not the case, that in former days the expense was considerably larger; was it not formerly about 200*l.* a year; and did not the Court of Directors, and the Commissioners for the Affairs of India, reduce it to its present amount?

The charge was formerly much lower than at present.

440. Is there any difference made in the expenditure between the sons of officers and others, as there is at the military college at Sandhurst?
No, there is no difference.

441. What is the number of students at Addiscombe?
One hundred and fifty.

442. Who appoints the Governor at Addiscombe?
The Court of Directors, with the approbation of the Board, appoint the chief resident authority, who is called Lieutenant-governor.

443. There is another very important officer at Addiscombe: is not the Examiner always an officer of the highest distinction in the service?
He is a general officer in the Queen's service; Sir Charles Pasley is the officer at present, and the late Sir Alexander Dickson was his predecessor.

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned till Monday next, One o'clock.

Die Lunæ, 10° *Maii* 1852.

THE LORD PRIVY SEAL in the Chair.

JAMES COSMO MELVILL, Esquire, is called in, and further examined as follows:

444. HAVE you some papers to give in to the Committee?
The Committee desired that I would produce to them the test for the students at Haileybury upon admission and departure; also the regulations for the appointment of direct cadets, Addiscombe cadets, assistant surgeons, and chaplains; I now deliver them in, with a copy of the statutes of the East India College, which contain the final test at the departure of the students from the institution for the purpose of receiving appointments in the civil service.

[*The same are delivered in.*]

445. Can you state how many of the Directors have been resident in India?
Twenty-one out of the 30 (including the six out by rotation), besides three who have been commanders of East India ships, and therefore have occasionally been in India. Before 1834 there were 15 out of the 30, and four commanders of East India ships.

446. Do you consider it desirable that the Directors should all have local experience?
I do not; local experience, to the extent to which the Court now have it, is very important; but I should be sorry to see the day when all the Directors were persons who had resided in India; it seems to me that the presence of a few English gentlemen of European experience only in the Court of Directors is invaluable.

447. How many chaplains are there in India?
The total number of chaplains on the several establishments in India now is 121; in 1834 it was 87.

448. Are there any complaints made of the inadequacy of the ecclesiastical establishment?
The present Bishop of Calcutta has made representations of the inadequacy of the number of chaplains, and the Court of Directors have, in a great degree, but not to its full extent, met his requisition; the Bishop has also represented the importance and necessity of a division of the See of Calcutta, in view to the erection of a Bishopric at Agra; nothing has yet been done in furtherance of that object.

449. Is that under consideration?
It depends upon Parliament.

450. Are the chaplains allowed to absent themselves on furlough?
Yes; there are furlough regulations applicable to the chaplains, as well as to all other classes of European servants in India.

451. Have you a copy of those regulations?
I can produce them, if the Committee desire it.

 452. Are

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452. Are the furloughs granted by regulations of the Company, or under Act of Parliament?

The furloughs are granted under rules framed by the Court of Directors, and approved by the Board of Commissioners; there is, however, an Act of Parliament which has an important bearing upon the absence of Europeans from India; it is the Act of 1793 (the 33d of George the Third, chapter 52), which contains a provision that whenever a servant comes to Europe, his allowances shall cease from the date when he leaves India. The effect of this is, that servants, being compelled by sickness to quit India, seek a residence at the Cape of Good Hope, or at other places within the limits of the Charter, in order to avoid the total loss of their allowances, regulations having been framed by the local governments to secure to them a portion of their allowances when so absent; but, in consequence of the establishment of steam communication with India, *viâ* Egypt, the Cape is practically further off from India than England, and a desire has been expressed on the part of the Services that invalids compelled to leave India for the benefit of their health should be allowed to come to Europe. The consideration of that has been postponed until the pleasure of Parliament might be known as to the continuance of the enactment which I have mentioned.

453. Does that specific enactment necessarily come under consideration on the present occasion in considering the renewal of the Charter?

Not necessarily; it is a clause in the Act of 1793, which was not interfered with either in 1813 or in 1833; but it is the acceleration of the communication between India and Europe which now suggests that the question should receive special consideration.

454. In the last Act of Parliament, is the Act of 1793 referred to, except so far as it may be expressly repealed by that statute?

Yes, it is maintained by the last Act; all former Acts that were not specifically repealed, are declared to be still in force.

455. Then it will, of course, come under discussion directly, in considering the renewal of the Charter?

I apprehend not necessarily, but I think it ought to do so.

456. In your last examination you stated, that at one period the civil servants were appointed by the London Board; what do you mean by the term London Board?

Some years ago there was a demand for civil servants in India to a greater extent than the College could supply. To meet this emergency a Board of Examiners was constituted to assemble in London, and to examine candidates for the civil service, without requiring them to pass through Haileybury, two Acts of Parliament having been passed for that purpose (7 Geo. 4, c. 56, and 10 Geo. 4, c. 16): that Board was denominated the London Board.

457. It had only a temporary existence?

Yes.

458. Can you give the Committee any statement of the results of it, as compared with the results of the appointments after examinations at Haileybury?

Of the persons presented to the London Board, a larger proportion was rejected than of persons presented for admission to Haileybury; of the persons examined and passed, the proportion of these, in the first class, was only 4 per cent. by the London Board, whilst at Haileybury it was 25 per cent.; and in the second class, the proportions were 33 per cent. by the London Board, and 55 per cent. at Haileybury.

459. For how long did the London Board remain in force?

It was in force for five years.

460. From the experience that you have had, which do you consider the most satisfactory system, the London Board or the College of Haileybury?

I certainly think that the College at Haileybury proved much more satisfactory than the London Board. Referring to the answers which I gave upon the former occasion regarding Haileybury, I would explain my opinion to be, that, whether Haileybury be continued, or any other system introduced, the civil servants should receive a public education; I think nothing could compensate for the loss of

of an education at a public institution. If the system were that of a private examination, the candidates, as was the case at the London Board, would be crammed for examination, and they would also lose the manliness and mental enlargement which public instruction is fitted to produce.

461. Are not they crammed for the Haileybury examination?
For the examination previous to admission they may be, but they cannot be crammed for the last; they remain two years at Haileybury, undergoing a regular course of instruction, under the eyes of the professors, who examine them when they leave the College.

462. Was it in consequence of those regulations that the London Board was discontinued, after the expiration of two years?
It was in consequence of the expiration of the period for which it was appointed; Parliament limited the term to the necessity of the case.

463. Who were left to judge of the necessity of the case?
The precise period was fixed in the two Acts to which I have referred.

464. No attempt was afterwards made to renew it?
No.

465. Is there any means of ascertaining what has been the career of those gentlemen who were examined at the London Board since the time when they entered upon their duties in India, as compared with the gentlemen who have passed through the college at Haileybury?
Yes, a statement could be made of that; as I mentioned, there were one or two instances of very distinguished men who passed before the London Board; Sir Henry Elliott, who is now secretary to the Government of India, is one of them.

466. He is remarkable for his knowledge of languages, is not he?
He is a great Oriental scholar.

467. With reference to an answer which you gave upon a former occasion, is it still your opinion that if the young men were educated at either of the great English Universities, provided they had a public education, and were sufficiently grounded in the Oriental languages to stand the examination before a proper Board of Examiners, they would be calculated to form as good public servants in India as those educated at Haileybury?
I think they would, if they had public instruction, and had all the advantages of education in the Oriental languages and in law and political economy that are given at Haileybury.

468. Could not a knowledge of these be obtained by requiring them to pass through a sufficiently stringent examination?
I should think it could.

469. You mentioned just now, that in certain quarters a wish had been expressed to the Court of Directors for an increase of the ecclesiastical establishment; is that so?
The Bishop of Calcutta applied to the Bengal Government, and the Bengal Government communicated that application to the Court, that there might be an increase of chaplains.

470. Have there been any applications made from any other quarter, except the Bishop of Calcutta, for such an increase of the ecclesiastical establishment?
The Government of India supported it; applications of a similar nature were also made from Bombay.

471. Did the Government of India support the wish which you mentioned to have been expressed by the Bishop of Calcutta, to have another Bishopric erected for the North-West Provinces?
The Government of India have as yet said nothing upon that subject.

472. Are you aware whether the Court of Directors has encouraged such a wish on the part of the Bishop of Calcutta?
They have not done so.

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473. Do you know whether Her Majesty's Government have so done, that is to say, the Commissioners for controlling the affairs of India?
I never heard that they had; but I have no means of ascertaining the fact.

474. On what grounds has it been objected to?
The general ground of objection taken by the Court of Directors, when the Bishoprics of Madras and Bombay were under discussion, was, that it would be more desirable to increase the clergy rather than Bishops, in the present state of India.

475. What is the extent of jurisdiction; how far is it from Calcutta to the furthest point?
It extends from Calcutta to the Punjaub.

476. What is it in geographical extension?
Fourteen hundred miles.

477. Do you know how many months it occupies the Bishop of Calcutta to complete his visitation?
I should think six months; but I cannot speak positively.

478. What are the salaries of the Indian Bishops, and from what fund are they paid?
The Bishop of Calcutta has a salary of 5,000 *l.* a year, payable at a rate of exchange which practically reduces it nearly to 4,600 *l.* a year: it is paid out of the territorial revenues of India by Act of Parliament. The Bishops of Madras and Bombay receive 2,560 *l.* each, and those are also payable out of the revenues.

479. Are those reduced in the same proportion as the salary of the Bishop of Calcutta?
No.

480. Beside the salary, can you state what other expense there is connected with the Bishop of Calcutta?
The House of Lords has called for (for the use of this Committee) a statement of the whole expense of the ecclesiastical establishment: that has been prepared and rendered; and it will show the items, including that of visitation.

481. Are the Bishop's travelling expenses paid in visiting his diocese?
They are: there is a fixed monthly allowance of 1,000 rupees for the expense of his visitation while on tour; besides which, the means of travelling, either vessels or carriages, are provided for him by the Government.

482. Is that in addition to his salary?
That is in addition to his salary.

483. Have you at all calculated the effect which the opening of the Overland route has had upon the number of officers coming on furlough to Europe, compared with the number in former times?
The number has, I believe, increased; but no such calculation has been made.

484. In proportion to the total strength?
I believe it has, though not materially.

485. Can you give the Committee a statement of the establishment of the native regiments of Infantry at various periods, going back to the earliest period?
Certainly.

486. What is your opinion as to the furlough regulations; do you consider that any material alteration of the present furlough regulations would be advantageous to the service?
I think it important that the rule with respect to invalids should be extended so as to allow of their coming to Europe, in cases in which they now go to the Cape; but, in other respects, in my opinion, there is no necessity to alter those rules. At the same time, I ought to state to the Committee that there has been great discussion in the Court of Directors upon that subject, and communication with the Government of India, and that many persons think that the furlough rules admit of great alteration.

487. Are you aware that, about three years ago, there was considerable agitation in India upon the subject, and more especially among the military servants of the Company?
There was.

488. Are you aware that that agitation went on for some time, and was at last dropped in consequence of the military servants themselves not agreeing upon the plan which they thought the most expedient to pursue?
I am aware that there was a great difference of opinion upon the subject, and that agitation has apparently ceased.

489. You do not think that, with respect to the general furlough rules, namely, as to the periods at which military and civil servants might be permitted to return home, to reside temporarily in Europe, any material change would be beneficial?
In my judgment, not; but the Court of Directors have expressed an opinion that it would be desirable to make some changes, so as to shorten the period of furlough, and increase the number of such opportunities for visiting England.

490. Has the matter been under the consideration of the Board of Commissioners?
It has been under reference to the government of India, as respects the civil furloughs, but not as respects the military. As respects both, it has been under the consideration of the Court of Directors and the Board.

491. And it is now under consideration, and it has been referred back to the Indian Government?
The Indian Government has made its report upon the subject of civil furloughs, and the question is still open for consideration.

492. Has the question been lately, or at any time, under consideration, whether it is expedient to maintain the established system in India of allowing officers furlough for one or two years, they keeping their appointments?
Yes; one of the points raised in the discussion was, whether servants should be allowed to come to Europe, holding their offices.

493. You are probably aware that a necessity arises, at some of the stations, for more than one chaplain, although the number of Europeans may not be very great, in consequence of the great extent of the station, and the scattered disposition of the troops?
I am.

494. Did you ever happen to hear that at Cawnpore, where there was but one clergyman at a time when there was considerable mortality, it was perfectly impossible for him, in consequence of the extent of the station, to perform the funeral service for all the persons that required to be buried?
I have not heard that that was the case, but I can readily imagine that, under peculiar circumstances, it may have happened. An arrangement was made some years ago, by which chaplains, located at particular stations, were granted an allowance to enable them periodically to visit places within the circle of their prescribed limits.
I was questioned upon the last occasion as to the distinction between covenanted and uncovenanted servants, and the Committee expressed a wish to receive some information regarding the employment of natives; I have, in consequence, had a statement prepared of the natives employed by the Government in the Public Revenue and Judicial Department, in the receipt of allowances ranging from 20 rupees a month, or 24*l.* a year, upwards. I find that there are of pure natives, 2,813 now employed in the situations of principal sudder aumeens, sudder aumeens, moonsiffs, deputy collectors, deputy magistrates, and in other offices.

495. Who are the sudder aumeens?
The principal sudder aumeens, sudder aumeens, moonsiffs, and deputy magistrates, are all judicial officers; the deputy collectors are revenue officers.

496. The sudder aumeens being the highest offices to which natives are appointed?
Yes.

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497. Can you state how many are employed in that capacity?
I have not the precise number. The whole cost of those natives is 428,137 *l.* a year. There are also 2,235 persons in public employment, selected from Europeans not originally in the service, and from the half-caste population, who receive altogether 470,358 *l.* per annum.

498. Can you separate the Europeans from the half-caste in that statement?
I think that might be done; but I am not sure.

499. Are those persons generally employed in inferior offices?
Yes, they are; some of them are employed as deputy collectors. The numbers I have mentioned include only those functionaries in the receipt of allowances above 24 *l.* per annum. The number of natives employed in revenue, judicial, and police duties in Bengal alone, drawing lower salaries, amounts to upwards of 40,000, exclusive of the village watchmen, of whom there are upwards of 170,000 in the lower provinces.

500. Is there not a limit to the salaries which the uncovenanted servants can receive?
It is in the discretion of the Government. Some of those included in my statement draw as much as 850 *l.* or 900 *l.* a year.

501. Those of whom you have now spoken are all in the Civil Service?
Yes.

502. Has it ever been under consideration, whether it would be desirable to employ Europeans as clerks in the Government offices?
I have not heard that point raised, but several Europeans are so employed.

503. Are you aware that there is, in point of fact, no secrecy whatever in the Government offices in India?
I am aware that there is no secret oath. Referring to my last answer, I will observe, that the anxiety of the Court is to give employment in the uncovenanted branch to natives rather than to Europeans.

504. Is any knowledge of the English language required from those natives who are employed in the Judicial and Revenue Departments in the higher posts?
I think not.

505. Is there any account of the number of Christians of all denominations in the East Indies?
No; we could make a return of the Europeans, but, with respect to the native Christians, it would scarcely be possible.

506. Was there any such return made at the time of the application for an increase of chaplains?
I think not; the application for more chaplains has been made with a view of giving religious instruction to the servants of the Government. The Court have laid it down as a principle which, in their judgment, ought to be maintained, that the only ground upon which an ecclesiastical establishment can be justified, at the expense of the Indian revenue, is, that the State ought to secure for the European servants of the Government who are entrusted with the administration of its affairs the means of inculcating upon them the doctrines and precepts of the Christian religion.

507. In point of fact, the chaplains are employed in no other work?
They are not.

508. Do you mean that the chaplains are at all precluded from teaching the natives?
No, there is no law against it, that I am aware of.

509. But they are not paid for that office?
They are not.

510. And they have settled duties fixed for them with the Europeans?
They have.

511. The jurisdiction of the Bishop is not only over the chaplains, but also over all episcopal missionaries?
It is over all the clergy of the Church of England.

512. Is

512. Is it known what is the number of Europeans in India?
Such a return has been called for, and will be produced immediately.

513. Do you know whether the number of Europeans resident in India has very much increased since the alterations made by the Charter of 1813, and by the Act of 1834?
It has scarcely increased at all.

514. What do you suppose to be the natural obstacles which opposed themselves to the settlement of Europeans in any numbers in India; is it the want of inducement to employ capital in the cultivation of the soil?
I do not think that India can ever be a colony.

515. Is it found that Europeans can settle themselves in India as indigo planters, or sugar growers, to any extent?
They do so, but not to an increased extent.

516. Not more than they did 50 years ago?
I think not.

517. To what do you attribute that?
India is already very extensively occupied by its native population; it is not like Australia or America, where there is plenty of vacant space for foreigners; there is a dense population in many parts of India.

518. Do you attribute that in part to the particular activity, skill and industry of many of the higher classes of the Hindoo population, which, in fact, leave not room for European enterprise?
Yes; in agriculture, for example, the native Indian is quite equal to the European; at least, such was the observation made by American planters who were sent to India for the purpose of encouraging the cultivation of cotton there.

519. Have they not even made considerable progress in the art of mining?
I believe they have in coal-mines in Burdwan.

520. You said that the Directors have felt anxious to increase the number of natives employed in the Company's service; has there been any great increase in the number of the natives employed in the last 20 years?
There has: until 1827 there were, comparatively speaking, few natives employed, except in inferior stations, and on low salaries. There was a prejudice that the natives of India, from deficiency of moral qualities, were not trustworthy; but during Lord William Bentinck's administration that prejudice was in a degree dispelled; and it was even doubted whether the prejudice might not create the very evil which it deprecated, and that by not trusting the natives, we were making them not trustworthy.

521. Have they, in fact, been found entirely trustworthy?
I think they have, always being subject, however, to European supervision.

522. What is the maximum salary enjoyed by any Hindoo now in the Company's service?
The largest salary paid to any native in public office is 1,560 *l.* a year; that is enjoyed by a native who holds the situation of Judge of the Small Cause Court at Calcutta, and also an appointment there under the Council of Education.

523. Can you state how long those appointments have been in his hands?
Some time; I could ascertain that.

524. Was any post of equal, or of nearly equal, importance to that held by any native previously to 1834?
Certainly not.

525. Do you include, in the statement you have given, the Custom-house places which are held by certain natives in Bombay?
Yes; there is a Parsee at the head of the factory at Bombay; he does not receive so large a salary as that which I have last stated; he was appointed by the Court of Directors; and that case deserves special notice, because he has Europeans acting under him. I may here state to the Committee, that the

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principle which is in progress throughout the civil administration of India is native agency and European superintendence.

526. Can you state the salary paid to any Roman Catholic chaplain serving with a regiment?
There is no such chaplain; but Roman Catholic priests living at the same station are granted allowances for performing the rites of their religion to the Roman Catholic soldiery in European regiments; their allowances vary from 20 to 100 rupees a month; the total sum paid for Roman Catholic establishments in India, since 1834, has increased from 1,500 *l.* a year to 5,000 *l.*

527. Are those priests chiefly or entirely employed as chaplains to regiments?
They are located at the station for general objects, and their services are made available for the soldiery; I think there is a Roman Catholic Bishop who has a small allowance from the Government for services connected with the registration of births, marriages and burials.

528. Can you state how many Roman Catholic priests there are?
There are in the whole 78, who participate in the grant composing the expenditure of 5,153 *l.* a year.

529. By the Returns before the Committee, it appears that the allowances to the Roman Catholic clergy have doubled in Madras, and quadrupled in Bengal and Bombay?
Yes.

530. Are there any Roman Catholic bishops to whom an allowance is given?
There is one.

531. Do you know what the allowance is?
Two hundred rupees a month.

532. You stated that it was the principle of the Directors that, as far as the Church Establishment is concerned, the clergymen who are employed are to confine their ministrations to the servants of the Company?
Yes, that is the case.

533. Will you explain to the Committee the principle upon which that rule has been adopted?
That the only ground upon which an application of the territorial revenue to ecclesiastical purposes in India can be justified is, the necessity of providing spiritual instruction for the civil and military servants of the Government, with a view to their conduct in the administration of the duty entrusted to them.

534. Do the Company feel that it is a just application of the territorial revenues to provide for the natives as well as for their own servants the institutions of justice?
Undoubtedly, that is one of the first attributes of Government.

535. Do they feel that they are justified in using those territorial revenues for the moral advantage of the people of India committed to their care?
Yes, I think so, but not to use them in efforts to convert the natives to Christianity, which they consider should be left to others than Government agency.

536. Then, will you point out to the Committee, if you are able, what the distinction is, in their minds, between providing for the religious wants of the natives and providing for the moral wants of the natives?
The distinction seems to me to be obvious; justice must be administered, or society would fall to pieces; but, with respect to religion, the feeling of the Court has been, that any attempt on the part of the Government to interfere with the religion of the natives would be unjustifiable and impolitic, and, by exciting jealousy and suspicion, distance the attainment of the object which all Christians must desire, of seeing Christianitydiffused in India. In fact, they are of the opinion, which Bishop Heber expressed, that missionary efforts, to be successful, should be totally unconnected with the Government.

537. Then, are the Committee to understand, that the motive to which you mean to allude, was the fear that the spread of Christianity would be prevented, rather

rather than accelerated by the Government taking a direct part in preaching it to the natives?

I think so; the Government felt that they ought not to interfere with the religion of the natives.

538. Will you state to the Committee, if you can, on what ground the Directors came to the conclusion that they ought not to interfere, which they might have come to on two distinct grounds; one might be, that it is their first duty to do what they can truly and honestly, to spread Christianity, and that they thought they could do that best by not directly teaching it?

With the most sincere desire for the diffusion of Christianity, the Court have felt that it would not be fit, in the promotion of that object, that they should violate the principle of strict neutrality.

539. Then, will you state to the Committee the mode in which they apply that principle to those districts of India where the great mass of the population have become, or are anxious to become, Christians. In the south of the Peninsula of India, you are probably aware that whole villages have become Christians, and are asking for the support of a Christian ministry amongst them: will you explain the principle upon which the Court of Directors think it right to refuse such a request?

I have not heard of any such request being refused by the Court of Directors.

540. The principle which you have announced to the Committee would not necessarily imply such a refusal, would it?

I doubt very much whether the authorities would be disposed to interfere, or to provide Christian instruction for such persons.

541. Are any salaries given to native priests for the instruction of those servants of the Company who are members of the native religions?

There are religious institutions and endowments in the country, which are of course protected by the Government; but the great object and policy of the Government for many years past has been to dissever themselves from all connexion with such institutions.

542. Why should you provide religious instruction for those servants of the Company who are Christians, if you do not do so for those servants of the Company who are Pagans or Mahometans?

That instruction is provided for the natives by their own institutions.

543. Did not the same principle of action which you have mentioned as operating now, prevent, for a long time, interference with the religious rites of the natives in India, such as the burning of widows?

For a long time, undoubtedly, great apprehensions were felt of interfering with suttees, upon the supposition that the inhuman practice was prevented by the religion of the people; but as soon as that was found not to be the case, the practice was put down.

544. Was not the same apprehension entertained as to the instruction of females in India?

I have not heard that subject discussed.

545. To what extent has that instruction gone; is there any instruction given to females, under the direction of the Government, in schools?

The late Mr. Bethune proposed some arrangements with that object, and the matter received the countenance of the Government, and the superintendence of native female education is now comprised within the functions of the Council of Education in India.

546. To what species of education was that directed?

It was general instruction.

547. Not including religion?

Certainly not.

548. Were not the same apprehensions entertained and expressed when it was first proposed to send out a Bishop of Calcutta?

No, I think not: when it was first proposed to permit the free access to India

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of missionaries, such apprehensions were expressed, but not, that I am aware of, as respects the appointment of the Bishop of Calcutta.

549. Are you officially cognizant of the facts with respect to the landing of the first Bishop of Calcutta, as to his being smuggled on shore?
No, I never heard of that.

550. Are you not aware that there were great apprehensions entertained and expressed, both at the Court of Directors and in the Houses of Parliament, when it was proposed to allow missionary exertions in India?
Much apprehension was expressed upon that occasion.

551. Will you state whether experience has, in any degree, justified those apprehensions?
I do not think it has.

552. Will you state to the Committee whether, as far as our experience has gone, there is anything to justify the apprehension that the mere giving the natives an opportunity of learning Christianity would tend to alienate them from our rule?
I am disposed to think that the sound policy of the Government in this matter is to maintain strict neutrality, allowing perfect toleration.

553. The question is, whether, within your knowledge, any facts have happened which make you think that there is good ground for the apprehension, that if the East India Company put facilities in the way of instructing the natives in Christianity, it would tend to shake the basis of the British power in India?
I think such an apprehension must be entertained on the part of persons now in India, who are better acquainted with the feelings of the natives than I can be; for example, Mr. Thomason, in his vernacular schools, never attempts, nor has proposed to attempt, the introduction into those schools of instruction in the Christian religion.

554. Has Mr. Thomason ever stated that the ground of his not doing so was a fear of shaking the British power in India?
No, I have not heard of any such statement, nor am I competent to speak as to what his sentiments might be upon the subject.

555. May not there be many other reasons which would justify such a mode of action besides the fear of shaking British rule in India?
There may; but I have little doubt that the non-introduction of instruction in the Christian religion in the Government schools arises from an apprehension that it would not be safe or politic to adopt that course.

556. But you have no facts, to which you can point the Committee, other than those which show that, whereas at every separate movement of the kind apprehensions have been expressed, in no case have those apprehensions been realized?
I have not.

557. Has any success attended the operations of the missionaries?
My only information upon that subject is derived from missionary intelligence, which shows that considerable success has attended their efforts.

558. Are you at all yourself aware of the number of conversions which have taken place in the southern part of the peninsula of India within the last ten years?
I am not, except from general report.

559. The East India Company would have no documents to throw light upon that point?
They would not.

560. Are you aware that, not long ago, at Madras, an attempt to create an institution for the education of all classes of the community, and to have Christian as well as other education there, gave rise to considerable commotion, and was the cause of a petition, signed by a very large number of the inhabitants of Madras, being transmitted to England?
There was such a petition.

561. Do you know the number who signed it?
No, I do not; it can, I imagine, be produced.

562. Was there anything done upon that petition?
The Court addressed a despatch to the Madras Government, in which they strongly expressed the principle of non-interference on the part of the Government with the religion of the natives.

563. Are you aware of any instance in which a native has been appointed a writer in the service of the East India Company?
No such appointment has ever been made.

564. Do you think there would be any objection to a native receiving that high appointment?
Yes, I think there would; and if the Committee will allow me, I will take this opportunity of explaining the grounds of my objection, and showing the distinction which now exists between the European and native servants of the Government. England must be regarded as holding India for the benefit of the people of that country, and our first and chief duty is to provide them a good government; all our systems of administration should be framed with a view to the advancement of the happiness and prosperity of the natives of India; if the natives were competent, from their moral qualities and from education, to fill offices under the Government, their exclusion would be a practical wrong; first, because the natives of a conntry have the first claim, when qualified, to share in the administration of its affairs; and, secondly, because native agency must always be more economical to the State than foreign agency. I have already stated to the Committee, that up to a comparatively late period, it was considered unsafe to employ the natives in any offices of trust, owing to a serious defect of moral character. The removal, in part at least, of that prejudice, removed and combined with the impossibility of providing a sufficient amount of European agency, led to the arrangements commenced in 1827, and since largely extended, for committing magisterial and judicial functions to natives; and now, as I have before said, the principle in progress throughout the civil administration of India is native agency, and European supervision and control; this principle is maintained by the distinction between the covenanted and the uncovenanted services; and the time has clearly not yet arrived for breaking down this partition, which would be the immediate effect of putting natives into the covenanted service; the salutary deference now paid to Europeans would thereby be weakened, if not annihilated. In the case of the army, the principle which I have mentioned is maintained in the distinct classification of European and native officers; the admission of natives as cadets would destroy the distinction, and ultimately involve the placing of regiments under the command of natives—a result for which we are certainly not yet prepared; the question seems to me to be one only of time; any attempt unduly to accelerate it might be prejudicial to the natives themselves, and injurious to the Government. The encouragement now given to the employment of natives in situations of trust, affords, I think, ample evidence that there is no disposition to exclusiveness further than what is necessary for the public good.

565. Will you state what is the distinction with respect to moral character which, in your opinion, fits the natives at this moment for the discharge of duties of a judicial character, and at the same time renders them unfit for the duties of covenanted servants of the Company?
I think that the natives, however employed, still require the check of vigilant European superintendence; a man may discharge public duties well, when he knows that he is subject to efficient control; but the period has not arrived for committing the whole Government of India to the natives, which might be the result of throwing open to them the covenanted service.

566. Is the office of a judge more subject to European superintendence and inspection than the office of a civil servant of the Company?
Yes; it is the Europeans, members of the covenanted civil service, who superintend the natives.

567. Are not the sudder aumeens always superintended by Europeans?
They are, generally, so superintended.

 568. Although

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568. Although you do not think that the natives are now so qualified, you still think that the time may come when they will be qualified to act without any detriment to the interests of British India, as covenanted servants of the Company in any grade?

I do; I think the question is only one of time.

569. Is there not also this difficulty in the way, that the salaries of the covenanted servants are adjusted with a view to remunerating Englishmen for going to a climate very different from their own, extremely injurious to their health, and accompanied with extraordinary risk?

That difficulty might be easily met. Of course, if the natives of India were extensively introduced into the covenanted service, the scale of remuneration must be revised.

570. Would not the fair principle to be applied be, that they should only be paid the same rate that Englishmen of the same education are paid for doing the same service at home?

Clearly so.

571. Will you explain to the Committee whether the rule you have mentioned applies to medical service as well as to others?

It does.

572. So that a native gentleman, trained in surgery in England, and eminently skilled in it, would not be admitted into the covenanted medical service of the Company?

I apprehend that he would not be prevented if he were presented. The clause in the last Act of Parliament would preclude the objection being taken.

573. Are not you aware that such a case has happened; that Sir Edward Ryan and another gentleman did present a medical gentleman, a native of India, eminently qualified?

I am aware that Sir Edward Ryan and Mr. Cameron made a representation to the Court of Directors, with a view to obtaining a medical appointment for Dr. Chuckerbutty, who was a native of India, and had been instructed in this country; and the answer of the Court of Directors to that representation was, that they were happy to tell Sir Edward Ryan and Mr. Cameron, that Dr. Chuckerbutty had been provided with a suitable situation in Bengal. Dr. Chuckerbutty is now in the position of assistant physician to the male hospital at Calcutta; he receives 408*l.* a year, with permission to carry on private practice. The pay and allowance of an assistant surgeon is 270*l.* a year.

574. Is Dr. Chuckerbutty admitted to the covenanted service, or not?

Dr. Chuckerbutty is not admitted to the covenanted service.

575. Was not the application of Sir Edward Ryan and Mr. Cameron that he should be admitted to the covenanted service?

It was.

576. That application, therefore, was refused?

It was answered in the way which I have stated.

577. Will you state to the Committee the principle upon which it is possible to approach the time when the natives shall be employed in the covenanted service, if they are to be excluded from the first beginnings, in which, by the consent of all, no evil would come from their employment?

I am not aware that, by the consent of all, no evil would come from their admission to the covenanted service. Medical officers are military as well as medical, and are introduced in a military capacity into regiments. I may here state, that there is a class of medical officers sanctioned expressly for the natives, under the denomination of sub-assistant surgeons, which consists entirely of natives.

578. Has not every native regiment its native medical officer?

Yes; they have native doctors to assist the surgeon.

579. Does not it happen that many of those native doctors are liked so much better than the European, that European gentlemen take their advice instead, in preference to the European medical officers?

I am not aware of that.

580. Are

580. Are not they considered pre-eminently skilful in surgical cases?
Dr. Chuckerbutty produced the highest testimonials to his qualifications.

581. When you say that some persons do not agree in thinking that no evil would come from the employment of natives as covenanted servants, do you allude to anything besides the mere inconvenience, that if the rule of not admitting them into the covenanted service were once broken through, it would become impossible to exclude them from direct military employment?
Yes; the fear is, that the principle of partition as between the covenanted and the uncovenanted service would be broken down.

582. Are you aware that three or four young natives of India came, a short time ago, to England, in order to be instructed in surgery and in physic?
I am aware of that fact.

583. And that they distinguished themselves, not only by their general proficiency, but also by their extremely good conduct, and gave the greatest satisfaction to those under whom they were placed for instruction?
They certainly did so.

584. Do you think there would be any harm in one of those young men, on returning to India, being employed, considering the European education he had received in England, in the Company's covenanted medical service?
I think there could be no harm in that particular case, except as an invasion of the principle I have mentioned.

585. You stated to the Committee that you thought the time was rapidly approaching when that rule should be superseded?
I have stated that I think the time is approaching when the natives of India would be considered admissible to many of the offices now held by covenanted servants of the Company.

586. Will you state the reason why you think it easier to maintain the principle in the abstract, applying it to all cases, including those in which, as you say yourself, no harm would come from its infraction, than to maintain it only in those cases in which harm would come from its infraction, and to prepare the way for its general supersession, by admitting natives in those cases in which no harm would arise?
My meaning is, that if a native were presented as an assistant surgeon, and admitted, the next day a native would be presented as a cadet, and he must be admitted, and in like manner civil servants; having once opened the door to any, it must be opened to all.

587. You think that if you admit them into the lowest grades of the covenanted service, it is not easy to stop them in their career, and to prevent their rising to the highest positions?
It would be impossible; there can be no harm in a native of India filling the situation of assistant magistrate, assistant collector, or judge; in fact they now discharge the duties of such offices, though in a separate grade; but if they were in the covenanted service, filling those situations, when vacancies occurred they must be promoted to the higher situations.

588. Is there any definite line laid down between those offices to which covenanted servants alone are eligible, and those to which uncovenanted servants are occasionally advanced?
Any rule that may have once existed has been broken through by the extensive introduction of natives into employments in the Company's service.

589. Then there is not now any definite line between the situations which covenanted servants alone can fill, and those to which the uncovenanted servants may be appointed?
I think not, except as to supervision.

590. With respect to promotions from the subordinate ranks to others, there is no distinction?
I apprehend that there is no rule which would prevent the local government from taking a native now employed, for example, an assistant magistrate, and appointing him to a higher situation.

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591. Is there any thing to prevent a native being chosen a Director of the East India Company?
Nothing.

592. You said that there was no distinct line between the covenanted and the uncovenanted service; can a native be a registrar of a court?
There is no law that prevents it, but practically no such appointment is ever made.

593. So that you are of opinion that the line of distinction has been practically broken through between those offices to which covenanted and uncovenanted servants are eligible; and that, as far as regards any abstract principle of distinction, none such now exists?
Not as respects the office; the duties of many offices may be committed equally to Europeans or to natives; but in the one case they belong to the covenanted, in the other to the uncovenanted service.

594. You consider that the line of distinction between covenanted and uncovenanted servants is the only convenient distinction which can be observed in India till the time arrives when the natives shall be found eligible to all the higher offices?
I do.

595. Are the Committee to understand that there are judicial offices held by natives which are not under the supervision of a European?
There are some judicial offices in Bengal, in which a native judge acts and decides, without reference to a European, even cases of appeal.

596. Is not that inconsistent with the principle which you have laid down, as being that which should regulate the employment of natives?
I think not, in the estimation of the natives themselves; they still maintain their deference to Europeans.

597. Can you conceive of any employment which requires higher moral properties than the proper discharge of the duties of a judge of a court?
No; I think not.

598. In the case which you have mentioned, of a native gentleman, who is the judge of the Small Cause Court, and receives a salary of 1,560 *l.* a year, is that a court without appeal; does he decide matters without the superintendence or control of a European?
There is an appeal to the Supreme Court in those cases.

599. Will you have the goodness to state again, shortly, the distinction between the covenanted and the uncovenanted servants of the Company?
Persons appointed from this country to the regular service in India, enter into covenants, and that gives the title of "covenanted servants;" persons who have not been appointed from England, but have been selected in India to fill offices there, do not enter into covenants, and they are called "uncovenanted."

600. When the Charter of the East India Company was last under the consideration of Parliament, was there not a change introduced into the law as to the employment of the natives of India under the East India Company?
There was a clause in the last Act of Parliament, which declared that there should be no disability for any office on account of religion or colour.

601. Was it not understood that that clause was carrying out the express views of Lord William Bentinck upon the subject?
I believe it was.

602. Do you consider that, practically, the maintenance of that distinction between the covenanted and uncovenanted service by the East India Company has been consistent with faithfully carrying out the spirit of that clause of the Act of 1834?
I think that clause has been effectually carried out by the extensive employment of natives, which I have mentioned. It is under that clause also that the parsee, at the head of the factory at Bombay, was appointed. The policy has been to maintain the old rule as respects the covenanted service, but to relax its practical operation, by extensively introducing the natives of India to offices.

603. Does

603. Does the practical rule which has been acted upon of excluding natives of India from the covenanted service, appear to you to be strictly in the spirit of that clause which was introduced into the last Act?

I apprehend that if any person were presented as a nominee to Haileybury, or for the military or medical service, no objection could, consistently with that clause, be taken upon the ground of his being a native of India; but I am not aware that any such presentation has ever been made.

604. Is not the fact that no such case has come before the Court the result of its being perfectly understood that the Court would not make such an appointment if such a case did come?

I think not: if a presentation were made, the Court of Directors would be bound by law to accept it, and to make the appointment, if the nominee were otherwise qualified.

605. The 87th clause of the Act of 1834 is in these words: "Be it enacted, that no native of the said territories, nor any natural-born subject of his Majesty resident therein, shall, by reason only of his religion, place of birth, descent, colour, or any of them, be disabled from holding any place, office or employment under the said Company." There is no reference here to any distinction between covenanted and uncovenanted servants?

No.

606. Has not the distinction which has been drawn, limiting the application of that clause to uncovenanted servants, had the effect practically, not only of modifying, but, to a great extent, of repealing that clause?

I am not aware that the Court of Directors have prescribed any such limit. I was asked for my own opinion as to the policy of opening the regular services to natives of India; and I have therefore ventured, with great humility, to express it, but I have not presumed to answer for the Court.

607. In point of fact, is there not an invariable practice which restrains the employment of the natives of India, who would be eligible under the general words of that clause, to such offices as are to be held by uncovenanted servants only?

I think it is good policy that they should be so restrained; but I am not aware that the Court of Directors have ever acted upon that in reference to the Parliamentary enactment.

608. Have you never known them asked to do the contrary?

I have not known any case in which a presentation of a native of India has been made to the Court.

609. Was not the petition of Sir Edward Ryan and Mr. Cameron in favour of the native medical man of whom you have spoken very much a case in point?

Sir Edward Ryan and Mr. Cameron did not prefer their application upon the ground that Dr. Chuckerbutty had received a presentation; they asked the Court of Directors to appoint him an assistant surgeon; the Court, as the Committee are aware, do not part with the patronage of the body collectively; they divided, and exercised it individually. All that the Court of Directors stated to Sir Edward Ryan and Mr. Cameron was, that Dr. Chuckerbutty was already provided for in a situation suitable to his merits.

610. Did they thereby avoid giving any direct judgment upon the question which those gentlemen wished to raise?

They did not think it necessary to express any opinion upon that point.

611. Was any communication made to those gentlemen of eminent consideration for their past services, stating that, if the native medical gentleman obtained a presentation, there would be no objection to his appointment to the situation of a covenanted servant?

No, nothing of that kind was said.

612. Is not the distinction between the covenanted and uncovenanted servants a mere question of form; is not what is called the "covenant" rather the badge

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of a class than any thing connected with the existing state of the East India Company in itself; was not the covenant, in fact, an old commercial form?
Yes, but it describes a separate and an exclusive service.

613. It is exclusive with respect to the natives of India?
No, there is nothing that shuts them out of it.

614. But, nevertheless, in practice they have been excluded?
In practice they have not been admitted.

615. If the objections which you have suggested to the Committee are adopted, how are they ever to be departed from at any future time, and if at all, under what circumstances?
When the natives generally shall have greatly advanced in civilization and intelligence, and their moral qualities shall have improved, all which could not fail to be the case if it should ever happily occur that Christianity were universally diffused throughout India.

616. But unless a beginning be made, by introducing the natives into the inferior offices to test their powers, and to test their fidelity, can they ever be prepared to enter into the higher offices?
But I submit that there is that beginning, and that that principle has been extensively acted upon since 1827, when Lord William Bentinck was Governor-general.

617. Are you aware of the existence of any feeling of soreness on the part of the natives at not being admitted into the covenanted service?
I am not.

618. Are not many of the higher appointments now held by the natives very much superior in importance and in profit to the lower offices held by covenanted servants?
Many of them are.

619. Would not your principle exclude all the natives from any covenanted office till every native is fit for every covenanted office?
That would be an extreme application of the principle which I should be sorry to see.

620. Can you show the Committee in what way, upon the principle which you are adopting, you fall short of that?
I think the Government, acting upon the principle which I have mentioned, would be the best judge of the time when it should be adopted.

621. You have expressed the opinion that the time may shortly arrive when the natives may be employed in all situations; would it not then be desirable that they should be introduced gradually, without laying down any general rule with regard to their being limited to certain classes of appointments?
It is being introduced gradually, but without breaking down the distinction which, I think, must be maintained so long as it is deemed essential to preserve European supervision and control.

622. Is there any instance in which the Court of Directors have expressed their disapprobation of the appointment of an uncovenanted officer to a situation which they deemed it fit that a covenanted officer alone should fill?
I am not aware of that.

623. Supposing that any one to whom the Court had given a writership were to present a person who, though not a native of India, might be a native of Africa, would the objection apply in that case; does the objection apply solely to natives of India, or does it apply to colour, or any other peculiarity besides the fact of the person being a native of India?
I have not heard that the objection has been taken by the Court in any case since 1834.

624. Supposing, for example, that Ramohunroy, who, instead of being the adopted son of a native of India, had been a Portuguese half-caste, or anything of that sort, a man of inferior condition, but not a native of India, do you think the objection would then have been made?

I should

I should think not: but I am not aware that the objection was taken in that case.

625. Are you not aware that the natives of India have much less respect for the half-castes than they have for Europeans, or for natives?
I believe that to be the case.

626. They look upon them with great disregard, almost amounting to contempt and disgust?
I have heard so.

627. Do you believe it would be for the advantage of the natives themselves if their ideas of the superiority of Europeans in position were materially shaken?
No, I do not; I should be very sorry if that were to happen.

628. Would it be for their advantage to lose that sort of implicit submission to European authority which now prevails?
I think not.

629. It could only lead to struggles which would disturb their quiet, and interrupt their prosperity?
I think so.

630. If the natives of India were in practice admitted to the covenanted service, and likewise to cadetships in the army, so as, at no very distant period, to occupy a very large portion of the higher civil and military appointments in the country, by what means do you suppose that we should continue to maintain the dependence of India upon England?
I think that when natives of India hold all the civil offices now held by Europeans in the supervision of them, and the native army is officered by natives, the period will have arrived when the dependence of India upon this country will cease.

631. Will you have the goodness to state what the constitution of the government of India was previously to the last Charter of 1834?
Before 1834 there were three governments in India: the Governor-general of Bengal, the Government of Madras, and the Government of Bombay.

632. How were they appointed?
The Governor-general and the Governors were appointed by the Court of Directors, with the approbation of the Crown. The civil members of Council were appointed absolutely by the Court of Directors; the Commander-in-Chief was appointed to the Council by the Court, but his appointment as Commander-in-Chief required the sanction of the Crown to give it validity; that was the case before 1834.

633. Was there a commander for each Presidency?
For each Presidency. The Commander-in-Chief in India was generally the Commander-in-Chief in Bengal.

634. Will you state the duties of the Governor-general previously to 1834?
Previously to 1834 the Governor-general of Bengal managed the whole of the Presidency of Bengal, and also was invested with a general power of control over the Governments of Madras and Bombay. The Governors of Madras and Bombay administered the governments of those Presidencies, subject to that control.

635. To what extent was the Governor-general controlled by his Council previously to 1834?
He had the power to overrule his Council in all cases in which he considered that the interests of India required that he should do so, recording his sentiments in each case, and the members of Council being authorized to record their sentiments also; that being done, the Governor-general took his own course.

636. In what cases did the Council of the Governor-general assume the supreme authority?
They had no power over the Governor-general; but in his absence he nominated a Vice-President in Council when he went away.

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637. Had that Vice-President in Council the same power that he had?
He was authorized to exercise in Council the same powers that the Governor-general would have exercised.

638. Had he the power which you last mentioned of overruling the Council?
No, the Vice-President had not the power to overrule the Council; that rested with the Governor-general only.

639. All the decisions were taken by the majority of the Council?
They were.

640. Was the Commander-in-Chief a member of the Council *ex officio*?
Not *ex officio*. He was a member of Council whenever the Court of Directors appointed him to it, which they did almost uniformly.

641. Not in all cases?
There was an unfortunate case of exception in 1809 at Madras.

642. Do the observations which you have made with regard to the Presidency of Bengal apply to the other Presidencies, always excepting the overruling authority of the Governor-general?
Yes, the Governors of other Presidencies had equally the power of overruling their Councils.

643. You stated that in that case the reasons were to be put in writing, and referred to the Court of Directors; were they liable to revision by the Court of Directors?
Yes, everything was liable to the revision of the Court of Directors.

644. With or without the consent of the Board of Control?
With the consent of the Board.

645. They had no power of revising, independently of the Board of Control?
No.

646. What were the changes effected in the constitution of the several governments of India by the Act of 1834?
The Act of 1834 provided that there should be one central government, called "The Governor-general of India in Council." That it should consist of a Governor-general, appointed by the Court of Directors, with the approbation of the Crown, and of four other members of the Council, three of whom were to be taken from members of the Civil or Military Service of India, who had been at least ten years in the service, and the fourth was to be a person who had been previously in the service of the Company. The first three ordinary members were to be appointed by the Court of Directors absolutely; the fourth was to be nominated by the Court of Directors, but their nomination required the sanction of the Crown to give it validity. Four subordinate governments were constituted to act under that central government; viz., the government of Fort William, the government of Agra, the government of Madras and the government of Bombay. The Act declared that each of those subordinate governments should consist of a Governor, to be appointed by the Court of Directors, with the approbation of the Crown, and of three members of the Council; such of them as were civilians to be appointed by the Court of Directors, absolutely, by selection from among the civil servants of twelve years' standing, and the Commander-in Chief to be appointed as one of the Council, if the Court of Directors thought fit, his appointment as Commander-in-Chief having been made with the sanction of the Crown. The Act then made the Governor-general Governor of Bengal, with authority to him, whenever he thought fit, to appoint one of the ordinary members of Council Deputy-Governor, to manage the details of the government of Bengal. The Act also gave power to the Court of Directors, with the sanction of the Board of Control, to abolish altogether, or to reduce the Councils at all or any of the subordinate governments. It gave to the central government extended control over the subordinate governments, and it committed to it a power of legislation for all India, over all persons, and extending to a power to alter any Acts of Parliament, except the Charter Act, and Acts that might be subsequently passed, and to interfere with and control Her Majesty's Courts of Judicature in India. Those were the principal changes made in 1834.

647. Was it not also provided that the Commander-in-Chief of Bengal might be made an extraordinary member of the Council?

I omitted

I omitted to state that the Commander-in-Chief of all the Forces in India, appointed to that office by the Court of Directors, with the approbation of the Crown, may be made an extraordinary member of Council of India, and he always is so made.

648. Was it permissive, or obligatory?
It was permissive, not obligatory.

649. Were the Commanders-in-Chief of the subordinate Presidencies also generally members of those subordinate Councils?
They are always so. It is the practice for the subordinate governments to consist of two civil members and the Commander-in-Chief.

650. Was there not also a judicial member of Council appointed?
There was a legislative councillor, being the fourth ordinary member of the Council of India, to which he was added expressly for the purpose of assisting them in legislation.

651. Had he any other duties or powers, or were his duties confined entirely to the matter of legislation?
No; his powers are expressly confined to sitting and voting in the Council when they meet to frame laws.

652. Was that distinction uniformly observed?
Yes; but the legislative councillor is, I believe, permitted to be present in the Council at all meetings.

653. Were there any judicial members of Council appointed at the minor Presidencies?
No, the minor Presidencies have no power of legislation now; the power of legislation for them is with the central government.

654. Were the changes you have described carried into effect under orders from the Court of Directors?
Yes; the Court of Directors issued directions for the purpose; they appointed the ordinary members of Council, whom they were authorized to appoint by the Act, and it was agreed to dispense with the formation of Councils at Agra and in Bengal, it being thought that from their proximity to the seat of the Supreme Government, which it was expected would continue at Calcutta, the power of control would be so immediately exercised as to supersede the necessity for Councils.

655. But the Councils at Madras and Bombay were not superseded?
No; they remained.

656. How have the governments of Bengal and Agra been affected by those changes?
The Governor-general has been loaded with the details of the government of Bengal, from which he can only relieve himself by appointing one of the ordinary members of Council to be Deputy Governor; in either case the government is conducted by a member of the Supreme Government, with whom it rests to control the subordinate government; the government of Bengal being, in the one case, administered by the Governor-general, and in the other, by a member of his own Council; it is the act of the Governor-general in Council which controls the subordinate government.

657. In either case, the Governor-general in Council controls the Government of Bengal?
He does. With respect to Agra, as soon as the intelligence reached India, objections were taken to the formation of a separate government, principally upon the ground that, not having any political authority, and there being no army, or any separate civil service there, it would be useless and expensive. The Court of Directors, upon hearing of those objections, and participating in them, sought a change, and obtained authority to substitute, for the separate government of Agra, a Lieutenant-governor, acting in immediate communication with, and under the control of, the Governor-general of Inida in Council; and that arrangement has worked most satisfactorily.

 658. How

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658. How is the Lieutenant-governor appointed?

He is appointed by the Governor-general from among the servants of the Company of at least ten years' standing.

659. The appointment of the Lieutenant-governor of Agra did not require any consent on the part of the Crown?

It did not. There was authority given by Parliament for the Governor-general of India to appoint him.

660. Would it be desirable to constitute the governments of Madras and Bombay as the government of Agra is constituted?

I do not think so. Powers were given for the abolition of Councils in 1834, and they have never been acted upon as respects Madras and Bombay. At these Presidencies, the government is combined with the army; and when that is the case, it seems important (and our experience justifies it), that the head of the army should be associated with the civil government, whose power over its distribution and movement at all times, but most especially in times of excitement, should be undoubted. It is important also to contentment that the military authority should have a seat in the government. I would here quote an extract from a letter from the President of the India Board upon this subject, which was concurred in by the Court of Directors. It is dated the 30th of December 1834. Speaking of Councils, Lord Ellenborough says, "It makes the government one of record; it renders necessary discussion before action; it imposes reflection upon arbitrary power, by the minutes of the several members of Council in matters of importance and of difference; it draws to those matters the attention of the home authorities; enables them to see upon what grounds, and to judge whether upon good grounds, any measure has been adopted; and thus places upon those who are necessarily entrusted with power, of which the immediate action is unlimited, the salutary restraint arising from the consciousness of ultimate responsibility. It is by this institution alone that we have been enabled to secure to India all the advantages of absolute monarchy, combined with many of those which in other countries are only attached to limited and constitutional government."

661. That was a letter addressed by Lord Ellenborough to the Chairman and Deputy Chairman?

It was.

662. Was that with reference to the proposed alteration with regard to Agra?

It was with reference to the government of Bengal. A further argument in favour of the retention of the councils at Madras and Bombay is, that there are separate services, civil and military, which is not the case at Agra.

663. Has the power of legislation given by the Act of 1834 been extensively exercised?

Yes, it has. A great many Acts have been passed which have been laid before Parliament annually.

664. Has any progress been made in the formation of a uniform code of law for all India?

I can hardly say that no progress has been made. A criminal code was sent home, and it has been a subject of frequent discussion between the Government of India and the Court of Directors, and of reference to various authorities, civil and judicial. It came under the consideration of Lord Dalhousie's Government a short time since, and he was assisted in that consideration by the late Mr. Bethune. It was then transmitted to this country, in a revised form, with a request that it might be revised again here, and that then, without further delay, authority might be given to the Government of India to pass it into a law. In the meantime, Mr. Bethune having died, Mr. Peacock, an eminent Queen's counsel, was appointed to supply the vacancy thus occasioned, and the opportunity was taken to send back the revised code to India, and to desire the Government to avail themselves of Mr. Peacock's talents in the further revision of it; and authority was given that, when so revised, it might be at once passed.

665. Without reference previously again to England?

Without further reference to England.

666. In

666. In whose hands is the control of the expenditure placed?
Entirely in the hands of the Governor-general of India in Council: he has express authority to control all the money arrangements of the subordinate governments.

667. Within a certain limit?
No; the home authorities have prescribed certain limits, within which he must refer to them; but with respect to the subordinate governments, there is no limit by law; the Supreme Government may themselves have fixed one.

668. In point of fact, has not the superintendence of the Governor-general of India in Council over the subordinate governments been very much less since the passing of the Act in 1834 than was apparently intended by the Act?
I think it has been greatly increased; Lord Clare complained very much of the intended supervision, and resigned the government of Bombay in consequence of the alteration made in that respect.

669. Does not the system of revenue and the condition of the people differ materially in the different Presidencies?
Yes.

670. In consequence of this difference, is there not a great deal of the control of the revenue system placed in the hands of the subordinate governments?
The subordinate governments doubtless make the arrangements, but all subject to be controlled by the Supreme Government.

671. Has the Governor-general in Council the same absolute control over the disposition of the troops that he has over the expenditure?
Certainly.

672. There is no admission of military into the Councils of the subordinate governments as ordinary councillors, as there is in Bengal?
No, there is not; they must be civilians, with the exception of the Commander-in-Chief.

673. In your opinion, have any other advantages been derived from the appointment of the legislative councillor, except the preparation of that code which, you say, is now under consideration?
He has been the adviser of the Government in framing all the laws that have been passed, which are numerous.

674. Do you consider that his services have been of great advantage, and equal to the emolument which he receives for the appointment?
I do; I have heard that opinion expressed by persons who have filled the highest offices in India.

675. Are you not of opinion that the Advocate-general ought to be a person competent to frame any Acts which the Government may desire to introduce, effecting alterations in the law?
I certainly think that the Advocate-general ought to be competent to frame Acts, if necessary; but he has so much to do, that, I fear, he would not be able to perform the duties both of Advocate-general and legislative councillor.

676. Is the legislative councillor supposed to give advice, not only in framing, but also in devising, legislative measures submitted to the Council?
Yes; upon any legislative measure he would be consulted, and he would be the officer to frame it.

677. But he does not sit in the Council, except for legislative purposes?
There is a restriction in the Act of Parliament that he shall only sit and vote in meetings of the Council for framing laws.

678. Is he supposed to make himself acquainted with the various native codes existing in various parts of India?
I think he ought to make himself acquainted with all the information necessary for the guidance of his office.

679. Is he supposed to be an oriental scholar?
No.

680. He was President of the Law Commission?
He was.

 681. What

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681. What is the constitution of that commission?
The Law Commission consisted of certain persons recommended by the Court of Directors with the approbation of the Board, or if not so recommended, appointed by the local government; the legislative councillor was the President of the commission.

682. How long was that commisson in existence?
I think it is legally in existence now; but practically they have ceased to operate.

683. It was to consist of some members from every Presidency?
Yes; there was one civil servant from each Presidency.

684. Is there any constituted body at Calcutta of natives, of either religion, Musselman or Hindoo, to which the Government have the power of referring any intended legislative measure, for the purpose of ascertaining their opinion of it in its bearings upon the laws or customs or religion of either of those bodies of people?
I am not aware of the existence of such a body; but all laws, previously to their being enacted, are published in the newspapers, and circulated for general information, in order that any parties who may think themselves aggrieved or affected by them may appeal to the Government.

685. Are you aware that that exposure to public criticism, before a proposed regulation becomes law, has produced considerable modifications and regulations before they have been carried out?
I am not aware to what extent the modifications which have been made may have been consequent upon that publication.

686. But there is no body which can speak with authority, as a constituted body, upon the subject?
I think not.

687. Are the Committee to understand that you give a decided opinion in favour of the retention of the governments of Bombay and Madras in their present form, that is to say, a Governor and Council at each Presidency?
I do.

688. You do not think that, considering that the government of Agra has worked notoriously so well, the resemblance between the case of that government and the cases of the other two governments mentioned, Bombay and Madras, is sufficiently great to justify the application of the same rule to all the three?
I do not; there is this palpable distinction; at Madras and Bombay there are separate armies and separate services, which is not the case at Agra.

689. Are the Committee to understand you as saying that, supposing a Governor to be retained at Bombay and a Governor at Madras, still it would be inexpedient to dispense with the Councils of those two governments?
I think so.

690. Do not you think that, occasionally, embarrassment arises from differences of opinion, and from the system which at present prevails at both those Presidencies of recording minutes of dissents, which minutes of dissents are left there, and are frequently produced, and occasion continual controversies?
Inconvenience occasionally arises from that circumstance, but it is countervailed by the advantage of interchanging opinions upon public questions.

691. Could not the disadvantage which arises from the difference of the services be in some degree met by making it necessary, that in the Supreme Council there should always be some members who had been in the public service in the other two Presidencies?
That is occasionally the case under the present law, which is not obligatory, but permissive; one of the first ordinary members of the Council of India, the late Colonel Morison, was a Madras servant.

692. Do you not think that a Governor, without a Council, having a good secretariat, would produce the same results as a Governor in Council, with all those appendages which are now attached to the governments of Madras and Bombay?

I am

I am afraid that, in that case, responsible duties would often devolve upon irresponsible persons.

693. Is it not the fact that, as the governments are now constituted, the government is in the Governor, and not in the Governor in Council; that is to say, if there is a difference of opinion, the Governor at last is the man who decides?

The Governor has the power to decide; but I think he is frequently very much influenced by the opinion of his Council, especially a Governor upon his first arrival from England.

694. Originally, were not the members of Council at Bengal, and also at the other two Presidencies, the heads of departments?

They were.

695. When was that discontinued?

It must be many years since it was discontinued in Bengal; at Madras, I believe, they still remain the heads of departments.

696. Nominally, or really?

I believe nominally.

697. The chief difficulty in the way of assimilating the governments of Madras and Bombay to that of Agra, consists in the fact of there being separate armies at those two Presidencies; do you see any great objection to uniting all the armies under one administration?

That is a very serious question, involving grave considerations; I would rather that the Committee sought the opinion of military men upon it.

698. But supposing that those armies were united together, would you then see any objection to assimilating the governments of Bombay and Madras to that of Agra?

I think there would still be an objection, arising from there being separate civil services, and separate courts of judicature at those Presidencies. If there were no separate army, the abolition of the Council would, in my judgment, be undesirable, though it would remove one of the principal objections.

699. Would it be necessary in that case to keep up those governments on the same scale upon which they are maintained at present?

Perhaps not.

700. You think that the Councils are of use in carrying on the traditions of Government in case of the appointment of a new Governor?

Yes; I think when the Governor is appointed from England, they are indispensable.

701. Putting aside the considerations connected with there being separate armies in the different Presidencies, would there be any great advantage, in a financial point of view, in assimilating those governments to that of Agra?

I think not.

702. Would there not be practical advantage if the Supreme Council of India were always required to be composed of persons who have been engaged in particular departments, so that upon the removal of a person in the judicial department, for instance, a person in the judicial department should succeed him?

I think it very important that, in constituting the Supreme Council, reference should be had to the services in which the individuals proposed have been previously engaged, in order that there may be a knowledge of all the departments within the Council.

703. For instance, may not this happen, that on the removal of a military member of Council, he may be succeeded by a gentleman who had been in the judicial department, and the Council might at once be deprived of all knowledge, through any member of its own, of the army of the Presidency?

That might happen.

704. Generally speaking, it is the policy of the Court always to have a military servant one of the ordinary members of Council; but, inasmuch as in all

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cases some gentleman has a provisional appointment, it never can be known beforehand to which of the three members of the Council he will succeed?
That is the case.

705. Do not you think that the present system is liable to this objection, that on some occasions it may be expected that these great places, namely, the places of members of council, are given rather as a reward for past services than on account of the aptitude of the persons appointed for their present employment?
I think great care ought to be taken in the selection of persons for the Council.

706. Is it not possible, for example, that a general officer who shall have distinguished himself very much in the army at a distance, shall, as a reward for that service, and not from any peculiar aptitude to be a member of Council, be appointed a member of the Council of Bengal?
I am of opinion that military service, however great, ought not of itself to constitute the ground of selection for Council.

707. Do not you think that, in point of practice, it is very important to have in the Council an officer of the Company's army?
I think it very desirable.

708. As the Supreme Government has now control over the whole of the expenditure of India, and also over the magistrates for the whole of India, would it not be desirable if there were members of Council deputed from the services of Madras and Bombay?
I would not make it obligatory; the field should be kept as wide as possible for the selection of the fittest men for the Council from all India.

709. Is it not the fact, practically, that no civil member of Council has ever been appointed from one of the subordinate Presidencies?
He has not, but he may be; as I have before said, Colonel Morison was a Madras officer.

710. Have not the persons hitherto selected for the Council in India generally been persons of long service, and experience in one or other department of Indian service?
They have.

711. Frequently secretaries?
Very generally the secretary being the highest officer under the government, and the law having provided that, under certain circumstances, he shall act as a member of Council.

712. How is the Governor of Singapore appointed?
By the Governor-general of India.

713. Have you ever taken into consideration the expediency of separating the government of Bengal from the Governor-general?
I confess that my opinion is, that it would have been desirable to have continued the old arrangement, and to have left to the Governor of India the government of Bengal. By the former Act, previously to 1834, the Governor-general of India in Council administered the government of Bengal; and I think that that was a preferable arrangement to the government of India administering the government of Bengal through the instrumentality of its head, or one of its members.

714. That is to say, the Governor-general formerly administered the affairs of Bengal with the Council, whereas now he administers them without a Council?
Yes.

715. Subject to a reference upon many points to the Governor-general in Council?
Yes, and subject to the control of that authority.

716. Do you think it is possible that one person can adequately attend to the details of the government of Bengal, being charged at the same time with the government of the whole of India?

There

There is difficulty in his doing it; but the last Act of Parliament throws those details upon him, either on himself or one of his ordinary members of Council.

717. Are you aware that when Lord Ellenborough returned from the upper provinces he continued Mr. Bird as Deputy Governor of Bengal?
I am aware of that; that has been the only instance in which that has been done.

718. Might there not be inconvenience in separating from the Governor-general the whole of the civil patronage of Bengal?
I think so; the last Act of Parliament gave to the Court of Directors the power, with the approbation of the Board, of dividing the patronage of all India; that has never been done, and there would be great practical difficulties in doing it.

719. Is there not likewise a practical advantage in compelling the Gov - general, by imposing upon him the government of Bengal, to become acquainted even with the minute details of government, of which he otherwise could not become cognizant?
Yes, there is that advantage.

720. Has there been any recommendation upon that subject lately from the Government of India to the Court of Directors?
There has not.

721. Are you of opinion that any advantage would be obtained by removing the seat of government from Calcutta to Agra, or any other place in India?
The Governor-general has now power to move to any part of India, and to take his council with him, or to dispense with their attendance.

722. Is not there this practical inconvenience attending the present constitution of the government of India, that the Council is a legislative body, and it may happen that, by the accidental absence of one of its members, it may be deprived altogether of the power of legislating for a very considerable period of time?
That is the case: there is a necessity for three members being always present at any meeting of the Council to make laws; the law requires the signature of the Governor-general, if he is absent.

723. The presence of the legislative member of the Council is not indispensable?
It is not.

724. The Governor-general can assent to legislation in his absence?
He can.

725. And that may be given at a distance?
Yes; the only limitation to the power of the Governor-general by law is, that when he goes away from the Council at Calcutta, and a local Act is passed, defining what powers he is to take with him, those powers cannot include that of legislation.

726. The power of the Governor-general to overrule the Council does not apply to any legislative act?
It does not.

727. Has it ever been taken into consideration, whether it might not be expedient, at a very early period of a civilian's service in India, to make him decide to which of the two branches, the revenue or the judicial, he intends to devote himself, and to keep the judicial altogether distinct from the revenue branch?
I have generally understood, that experience in the revenue department has been found very useful to a judicial officer when he becomes such.

728. Is not it the case that at Madras that distinction is very much kept up?
It is; but the revenue officers in Bengal exercise magisterial functions, and decide questions in which the landed interests are involved.

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729. Might it not happen that a person might be placed in a high judicial situation who had never acted judicially, except as a revenue officer?
I apprehend that that has happened.

730. Do not you think that, considering the great importance of judicial functions, it would be advisable that there should be afforded to a gentleman who intends to devote himself to that particular branch of the public service the means of acquiring a knowledge of the laws which he will have to administer, namely, the Company's regulations, as well as the laws of England, and that there should be some examination and some test of his qualification for the judicial appointment conferred upon him?
I think that means ought always to be taken for ensuring the best qualifications for those important duties.

731. Have not the various alterations in the law which have recently taken place, generally had a tendency to superinduce the principles and practice of the law of England upon the law of India to a very great extent?
That may have been the case.

732. Has not one practical consequence of appointing a legal gentleman to sit as a legislative councillor been this, that he has set himself to consider what alterations he might make, and has naturally been anxious to distinguish the period of his residence in India by making material alterations, which, of course, he thought were improvements in the law?
I have not heard that stated.

733. Have not great innovations taken place in the law?
There have been changes; but some of the judicial officers of the Government would be better able to speak to that than I am.

734. Has slavery been abolished in our Indian territories since the commencement of the last Charter?
Yes; an Act was passed, by which the state of slavery is no longer recognized in the courts of law.

735. Has it been prohibited in any way?
In that way only, that it is not recognized.

736. Are you aware that that principle was carried farther in its application to Scinde, that all the penal enactments of the laws of England against slavery were made applicable to the practice of slavery in Scinde?
Yes.

737. Is it likely that that change in the law will lead to the practical discontinuance of slavery?
I can hardly speak to that; but the Government did all that they could do, in their legislative capacity, towards the discontinuance of slavery.

738. Do you mean that it is felony in Scinde to hold a slave?
I believe it was; but Scinde, being now annexed to Bombay, I apprehend that it is subject to the same provision regarding slavery as other parts of India.

739. Has there ever been occasion to put that law in force?
I am not aware.

740. Are you not aware that slaves are practically introduced into the native Courts?
That may be the case.

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned till Monday next, One o'clock.

Die Lunæ, 17° *Maii* 1852.

THE LORD PRIVY SEAL in the Chair.

Evidence on the East India Company's Charter.

Sir H. Maddock.

17th May 1852.

Sir HERBERT MADDOCK is called in, and examined as follows:

741. YOU have been a good deal in India?
A great many years.

742. In what capacity did you first go out?
In the civil service.

743. Will you state the different grades in which you served, till you became a member of the Council?
I commenced and remained for two or three years in a subordinate judicial and political capacity; after which I held important offices for more than 13 years in the Political Department. My services were in Bundelcund, in the Saugur and Nerbudda territories, in Eastern Malwa, at Lucknow, and in Nepaul, till the year 1832, when I came to England on furlough. Subsequently to my return to India in 1836, I was a short time employed as a Special Commissioner for the hearing of appeals in cases of land resumptions; and, on a vacancy occurring, was appointed Secretary to the Government of India; subsequently, a member of the Council of India, and for three years of the period that I had a seat in Council, I was Deputy Governor of Bengal and President of the Council of India, till 1849, when I returned to England.

744. Will you have the goodness to describe the mode of doing business in the Council?
The Council, consisting of the Governor-general, occasionally the Commander-in-Chief, and four ordinary members, assemble in the Council-chamber of the Government-house once or twice weekly. The business of the government of India is divided into several departments, the charge of which is in the hands of different secretaries. There is a Secretary of the Political Department, called the Foreign Secretary; there is a Secretary of the Home Department, who has charge of correspondence in the judicial and revenue, and the general internal administration of all the governments of India; there is a Secretary of the Financial Department, and there is a Secretary of the Military Department; each of those secretaries, upon the days when the Council assembles, submits for consideration, and orders such papers and correspondence as have been received since the last meeting, and require to be discussed in Council, and receives verbal instructions as to the orders which are to be issued; these he afterwards draws out in his office, and in all important matters sends in circulation to the Governor-general and to the members of the Government, for their approval, drafts of the letters which he has prepared under the instructions received; those drafts are either approved or altered or corrected by the Governor-general and by the other members of the Government, and when so approved or altered and corrected, are issued by the secretary to the subordinate governments and to other functionaries, to whom they are to be addressed. Formerly this was the course pursued with respect to almost all the public correspondence; but a change was introduced by Lord Ellenborough, and continues in force, by which much time and labour are saved; and, under the improved system then introduced, it is unnecessary for the secretary to submit in Council any papers on which he finds that the Governor-general, in the course of their circulation, has appended a

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note of written instructions, and that the other members of the Government have assented to the Governor-general's views; in such cases he acts on those written instructions, without bringing the subject for discussion at the Council Board; when that system was introduced, it was left discretional with any member of the Government who differed in opinion with the Governor-general, either to record his own opinion in writing, or to make a note on the papers, directing that the subject should be reserved for discussion in Council.

745. What are the duties of the fourth ordinary Councillor, the legislative councillor?

The duties of the fourth ordinary Councillor are confined to the deliberations connected with the drawing up of Acts, and all correspondence connected with the legislative business, with the Queen's Courts, with the different governments, and other authorities in India.

746. Is there not also a Law Commission?

I do not believe that at present there is a Law Commission. For several years after the passing of the Act of 1834, a Law Commission, presided over by members of the legal profession, sent out from England for the purpose, did exist; but six or eight years ago, the Government ceased to fill up the vacancies as they occurred in the non-professional members of the Commission, and it would have ceased to exist at all, but for doubts which began to be entertained whether it was competent for the Government of India to dispense with the maintenance of the Law Commission, as directed by the Act of 1834. However, as the Law Commission was no longer employed in the manner contemplated, the Government did not consider it necessary to incur the expense of appointing distinct paid Commissioners, but requested certain members of the Council, without any additional salary, to act as Commissioners, simply that the law might be complied with, and that the only remaining paid member of the Commission might be able to complete and submit to Government some interesting Reports on which he was engaged.

747. Has the fourth member of the Council power to interfere in any other matters except that which relates to the making of laws; has he any power to interfere in the general business of the Council?

None whatever.

748. What are the powers of the Legislative Council; are they absolute, without control, or are they checked by any reference to the Court of Directors?

The powers of the Legislative Council are almost unlimited, saving the prerogative of the Crown and the authority of Parliament; but all Acts passed by the Council are liable to be disallowed by the Court of Directors.

749. Have the Court of Directors the power of disallowing all other orders of the Council?

They have complete power to reverse any order of the Governor-general in Council. Previously to the passing of the last Charter Act, the Governor-general in Council possessed legislative powers; but an appeal lay from all Acts, then called Regulations, passed by the Governor-general in Council, by any party either in England or in India, to the King in Council. Under the late Charter Act, there has been no provision left for any appeal whatever against the legislative Acts of the Governor-general in Council. The only check upon his authority, in respect to legislation, is what I mentioned before, and the power given to the Court of Directors to disallow Acts after they are passed.

750. When you speak of the power of the Court of Directors, you mean under the authority of the Board of Control?

Of course.

751. Is there any power of legislation in the Court of Directors?

None whatever.

752. They can recommend the Governor-general in Council to pass laws with reference to general subjects?

They may recommend; but I consider the Legislative Council responsible themselves, independently of any recommendations that they may receive from the Court of Directors, for all Acts that they pass.

753. What

753. What power has the Governor-general in Council over the relations of peace and war with native states? *Sir H. Maddock.* 17th May 1852.

The Governor-general in Council has unlimited power with respect to peace and war, but subject to the previous instructions or the subsequent control of the Board of Control.

754. Are the laws made by the Legislative Council in force until disallowed?

Yes.

755. What power has the Governor-general in Council over the expenditure in India?

The powers of the Governor-general in Council over the expenditure in India are limited only by the instructions which from time to time he receives from the home authorities, and he is often himself restricted by such instructions from incurring expenses which he may consider necessary and expedient.

756. In what cases can the Governor-general act without communication with his Council?

The power of the Governor-general is defined in the Charter Act, which specifies in what cases he can act without or contrary to the opinion of the members of the Council. Of late years political events have frequently rendered necessary the absence of the Governor-general from the seat of Government, on which occasions, according to the authority given by the Charter Act, certain powers of the Governor-general in Council have been, by an Act of the Legislative Council in Calcutta, conferred upon the Governor-general personally; and when absent in the exercise of powers so conferred upon him by a Legislative Act of Council, he has exercised them with all the authority conferred upon him by the Charter Act as Governor-general in Council. On such occasions an arrangement has always been made for a division of the authority of the Governor-general in Council, between the Governor-general absent, and the officer selected to fill the office of President of the Council during his absence. On those occasions the Governor-general has retained the full and absolute control of every thing connected with the foreign and the military departments of the Government, and has left the control over the other branches, namely, the administrative branches of the Government, to be exercised by the President of the Council during his absence.

757. Can you put in a copy of one of the Acts of the Governor-general in Council, empowering the Governor-general to exercise those powers?

Yes, I can obtain one, and put it in.

758. Are all the proceedings, by which the Governor-general assumes those powers, reported to the authorities at home?

Every proceeding of the Governor-general in Council is reported to the home authorities.

759. In what relations do the different Presidencies stand to the Governor-general in Council, and what are their constitutions?

At Madras and at Bombay there is a Governor in Council; at each of those Presidencies the government consists of the Governor and Commander-in-Chief, and two civil members of Council. In the two other governments subordinate to the Government of India, Bengal has a Governor without a Council, and in the North West Provinces of Bengal, the capital of which is Agra, there is a Lieutenant-governor without any Council. All those governments are completely subordinate, in every respect and in every department, to the Governor-general in Council; they are bound to obey all orders and instructions that they may receive from the Governor-general in Council, and they are required to report all proceedings in every department periodically, in abstract, to the Governor-general in Council; but in the two former cases of Madras and Bombay, they also correspond directly with the East India Company, and receive orders direct from the home authorities. The Governor of Bengal, also, in some portion of his duties, corresponds direct with the home authorities, but all equally are bound to obey instructions that they receive from the Governor-general in Council.

760. Have they any power over the expenditure of the revenue?

By the Charter Act a complete control of the finances of India is vested in the

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Governor-general in Council, who limits the authority of the subordinate governments as to expenditure, without the previous sanction and authority of the Government of India, to any amount that may be thought expedient; and in practice the subordinate governments have of late years not been permitted to increase the permanent expenses of their governments in the smallest degree, without the previous sanction of the Governor-general in Council; and it has occurred in certain instances, that the subordinate governments have received authority direct from the Court of Directors for expenses which have been previously disallowed by the Governor-general in Council, and in matters of expense in those subordinate governments, it may be said that they are subject to the authority and control of two different bodies.

761. Do you think that there is inconvenience in such divided power?
Yes; I mentioned that circumstance, because it appears to me that there is inconvenience and inconsistency in it.

762. How far do the observations you have made, with regard to those inconveniences, apply to the Lieutenant-governor of Agra, and the Governor of Bengal, who act without a Council?
With respect to the Governor of Bengal, such a circumstance could scarcely occur, as the Governor of Bengal, since the last Charter Act, has always been the same person who is exercising either the office of Governor-general, or the office of President of the Council; and the finance of India, in either case, would have been under the President of the Council or the Governor-general; and it is, therefore, improbable that there would have been any such clashing between heads of offices, where the same individual held the different offices.

763. With regard to Agra, how does the case stand?
The government of Agra is more completely subordinate to the Government of India, through which it corresponds with the Court of Directors.

764. Would the case be the same with the two Presidencies of Bombay and Madras, if they were governed without a Council?
Yes, precisely. The circumstance of there being a Council or not being a Council, would not necessarily cause any alteration in the footing that those governments were on as to the relation subsisting between them and the Governor-general in Council and the Court of Directors respectively.

765. Is it the direct communication with the home authorities that makes the difference?
Yes.

766. What, in your opinion, are the advantages of the Councils at Madras and Bombay?
The advantages of the Council at Madras and at Bombay are, that the civil members of Council are selected from the civil service, and, in all probability, are the most experienced and the most efficient of the officers who have been employed in the Presidency for five and twenty or thirty years in the administration of the country. They are capable, therefore, of bringing the result of all their knowledge and experience to the Council-chamber, which is presided over most commonly by a gentleman from England, whose studies and pursuits, previously to his going out to India, have not afforded him the advantages of the knowledge and experience which he thereby obtains from those members of Council who may be considered as being appointed as his advisers and assistants in the discharge of his functions.

767. By the charter of 1833, it was in contemplation to have a Council at Agra?
Yes.

768. With the exception of direct correspondence with the home authorities, in what does the position of Agra, with regard to those advantages, differ from those of Madras and Bombay?
It was provided by the Act of 1833, that the East India Company might appoint a governor at Agra, with the sanction of the Crown; but there was a subsequent Act of 1835, which empowered the Court of Directors to suspend the execution of that provision, and, during the suspension, the Governor-general in

in Council was to appoint a Lieutenant-governor at Agra. The persons selected to fill that situation have always been members of the civil service of long experience, and capable, therefore, of carrying on the government of the Presidency of Agra without that assistance which I alluded to in my answer to a former question, of coadjutors in members of Council.

769. Does the necessity of the appointment of councillors at Madras and Bombay arise solely from the practice of appointing as governors, persons from England who have no experience in Indian affairs?

No; to this extent, that if there were no councillors, and governors were appointed from England, without any local knowledge or experience, such governors must either act for themselves, without sufficient knowledge of the country, or they must be guided, more than it is expedient that they should be guided, by irresponsible advisers; namely, the secretaries of their governments, instead of by responsible coadjutors.

770. If it were the practice to appoint, as governors, men of distinction and experience, at the head of the army; in that case, would councils be necessary?

I cannot say that I consider that councils, under such circumstances, would be indispensable, nor am I prepared to say, that with the best governors that could possibly be selected, it would be well altogether to dispense with the assistance of councillors.

771. Does the circumstance of Madras and Bombay having separate civil services, make it necessary to retain the councils at those Presidencies?

No, not necessary on that account; but if the councils were to be dispensed with at Madras or Bombay, it would become not only expedient, but just and proper, that members of the civil service of Madras and Bombay should be selected, as well as those of Bengal and Agra, to fill situations in the Council of the Government of India, I mean as a matter of justice to the gentlemen that constitute these services, if they were deprived of all prospect of obtaining seats in council in their own Presidencies; and it would no doubt tend to increase the efficiency of the Council of India, especially in its legislative and in its administrative capacity, if it consisted of members of the civil service from all the Presidencies.

772. Do you mean in addition to the present members of the Council of India?

In the case of any such alteration being made in the present arrangement, I should consider that one councillor from Bengal, one from Agra, one from Madras, and one from Bombay, would be sufficient, which would make an increase of only one councillor over the present number.

773. Do you see any inconvenience in the present limitation of the number?

There appears to be no necessity to limit the number to the present extent; as to the expediency of greatly increasing the number, I should say, that if the Council continues stationary, there can be no objection to any moderate extent of its numbers; but if any alterations should be made which would lead to the Council accompanying the Governor-general when absent from the Presidency, and not being stationary, then I conceive that it would be very inconvenient to increase greatly the number of the councillors. It might be thought desirable, that all the principal departments of the State should be represented in the Council; it may be urged that some officer, skilled in finance, should have a seat in the Council; that some one well acquainted with the revenue and judicial departments should have a seat in the Council, and that the Political Department should be represented there, and the Military; but if provision were to be made for the representation of all those departments in the Council of India and not only a representation of those departments of Bengal, but of all the Presidencies, the numbers of the members of Council must be increased indefinitely.

774. There are separate armies in Bombay and in Madras?

There are.

775. Has the Governor-general in Council the power to order an increase or diminution of those armies?

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Certainly he has the power, but no permanent increase is ordinarily made without a previous communication with the home authorities; political circumstances have frequently arisen to render necessary an increase, temporarily or permanently, as may happen, of the armies of India, and the Governor-general in Council, on his own responsibility, can increase the strength of the forces as much as he deems necessary.

776. That is, by adding irregular force?
Yes; of late years there has been no increase to the number of regular corps.

777. Can the Governor-general, of his own authority, increase the strength of a regiment?
The Governor-general has, on several occasions, ordered an increase of the strength of regiments.

778. You stated, that all the expenses of every kind must be incurred under the orders of the Governor-general; how is the patronage administered, both of Bengal and of the other Presidencies?
In the patronage of the governments of Madras and Bombay the Governor-general exercises no interference whatever, with the exception of the appointments to certain political residencies attached to those Presidencies. The Governor-general in Council, being himself Governor of Bengal, retains in his own hands the patronage of that division of the country. The patronage of the Presidency of Agra is exercised uncontrolled by the Lieutenant-governor of that Presidency, with the exception of a few of the highest appointments; that is to say, the appointments of the Judges of the Sudder Court, and the members of the Sudder Board of Revenue, whose appointments are made by the Governor-general in Council, at the recommendation of the Lieutenant-governor.

779. Is any share of the patronage in the hands of the Council?
None.

780. All appointments which the Governor-general in Council has to make, being made by the Governor-general in Council, if the Governor-general were to propose any appointment to which objections could be stated, those would be stated by the members of Council who might entertain them, and would be considered, would they not?
Unquestionably; there frequently are conversations in the Council upon the propriety of proposed appointments, and, as far as my experience of the practice of the Council of India is concerned, the desire of the Governor-general and of the Council is, that all appointments should be given to the fittest persons to hold them. I have seen little desire to monopolise patronage as patronage, but, generally, a desire on the part of the Governor-general to ascertain the fitness and the qualifications of the candidates for appointments before he selected them; and of course he has been happy to avail himself of any knowledge that the members of the Council might be able to afford him, to assist him in the selection.

781. Are those appointments ever influenced, to your knowledge, by political circumstances at home, or by the family or circumstances of the individual?
I cannot say that instances of that kind have never come to my knowledge; but I should say, that those are the exception to the rule, and that the practice, as I have said before, is to select the fittest men.

782. But without reference to any political opinions that they may hold?
Certainly, without reference to their belonging to one party or another. The favouritism, if any, is likely to be shown in favour of those who are recommended by friends or relations who may happen to have influence of any kind.

783. The question refers to the highest departments, which are under the patronage of the Governor-general?
With reference to the highest departments, the really responsible offices held under the Government of India, it has never come to my knowledge that any Governor-general has been swayed by any feelings of friendship or of political bias, in the selection of the individuals whom he has nominated to those high posts. As far as relates to the appointments of civil officers in India, the notion of patronage is almost out of the question, and a Governor-general or Governor feels more anxious to ascertain who is the fittest man to select, than whose son he

he is, or what party he belongs to, for there are no sinecures in the civil service, and the best paid offices are generally those that require the ablest men to fill them. The most valuable patronage pertaining to the office of Governor-general consists in the power which he possesses of selecting men from the military service to fill a vast number of civil appointments, including those connected with the civil administration of large portions of India that are not subject to the ordinary regulations; several high and subordinate political appointments, the Commissariat Department, the Executive Department, and a variety of desultory appointments which may be filled by military men. In selecting officers of the army for such appointments, which in many cases are equivalent to a transfer from the military to the civil service, a Governor-general will be influenced by those feelings which operate on patronage elsewhere; but as far as regards the filling up the principal, and even the subordinate officers in the regular civil service, he has no care but to select the fittest men. The range of selection is generally very limited, for the claims of seniority are so much attended to, as to circumscribe the choice of officers to fill vacancies; and if there appears no striking superiority or fitness in one of the candidates, or deficiency in another, the office is usually given to the senior.

784. If it should come to such a point, the Governor-general would be able to make the appointment against the opinion of the Council?
Certainly.

785. In the case of the exercise of the power of the Governor-general in Council of superseding the decisions or advice of his Council, what are the steps which are pursued; are any minutes recorded, and sent home?
In every case of difference of opinion between the Governor-general and the members of Council, those differences are stated in writing, and as all the documents and the proceedings of the Government of India are sent home, these, of course, would be also sent home, with some additional explanation on the part of the Governor-general.

786. Do you recollect any case in which the Governor-general has been obliged to resort to the power given him, under the 49th clause of the Act of 1833, of overruling his Council?
No.

787. It makes him the responsible person, if he differs from his Council with respect to the appointment of anybody?
In that case he takes upon himself the sole responsibility, and gives his reasons for what he does.

788. Would it not be necessary for him to give his reasons for thinking that that particular case came within the meaning of that clause of the Act of Parliament?
Of course he must state his reasons, and endeavour to show that he was justified in the course that he pursued.

789. Are you not aware that such cases of difference have sometimes occurred in the minor Presidencies, that is to say, cases where the Governor of Bombay, for example, happening to differ upon a very important appointment from his Council, has made the appointment, in spite of the opinion, and even the remonstrance of his Council?
I am aware of that; I was speaking now especially of the Council of India.

790. Did not Lord Hastings upon one occasion overrule his Council with respect to an appointment?
I believe he did.

791. Is there any necessity for the Governor-general recording his reasons, in reference to a case of patronage, in overruling the opinion of his Council?
Of course it is necessary; it is not to be conceived that a Governor-general would act against the opinion of his Council without stating his reasons, and recording them in a minute. It may often happen that a conversation occurs upon a subject on which there is a difference of opinion, and the opinion of the Governor-general prevails, and there is no written record of the occurrence; but this would hardly be the case in the discussion of matters of grave importance.

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792. Have not the late Governors-general divested themselves altogether of the government of Bengal?

No, the Governors-general have divested themselves of the government of Bengal generally only during their absence from Calcutta: Lord Auckland never ceased to be Governor of Bengal as long as he was in Calcutta. Lord Ellenborough, on his return to Calcutta, after his first absence, re-conferred the government of Bengal upon Mr. Bird, the gentleman who had been previously in charge of it. Lord Hardinge also, on his return from absence from Calcutta, re-appointed me, who had been Deputy-governor of Bengal in his absence, to be Deputy-governor again while he remained present in Calcutta. Lord Dalhousie, on his arrival in India, immediately assumed the charge of the government of Bengal himself: he has now returned to Calcutta, and whether he has resumed it from the hands of Sir John Littler, I do not know.

793. Should you say, on the whole, that the present mode of governing Bengal is satisfactory?

I think that the Presidency of Bengal, as far as depends on the personal character and qualification of its governor, has less chances of good government than any other division of India, and for this reason, in all the other divisions of India the governor remains four, five or six years, whereas the head of the government of the Bengal Presidency has been changed about nine times in the last 12 or 14 years; there has been no continuous rule of one governor. Other parts of the Indian territories have had the advantage of governors of some continued experience, and who, in many instances, have had the advantage of travelling through the country, and making themselves acquainted with the people, and their wants and feelings. I conceive Madras and Bombay have always retained their governors for upwards of five years. Agra has also had the advantage of an able and energetic Lieutenant-governor for six or seven years. Bengal has partaken of none of those advantages; but is subject, and, under the present system, will remain subject to a perpetual change of its rulers.

794. How would you remedy that; by what new arrangement?

I should have a governor appointed to the Government of Bengal.

795. By whom?

By the Board of Directors.

796. Why should you object to place the nomination of the Governor of Bengal in the Governor-general, in the same manner as the nomination of the Governor of the North Western Provinces; why should you not treat the one as you treat the other?

I have no objection to changing the power of appointment, and making the Governor-general the patron; but if that were done with regard to Bengal and to Agra, I see no reason at all why that should not be done with regard to Madras and Bombay also.

797. What objection would there be to extending to Madras and Bombay the same system of government?

The Governor-general would be rendered omnipotent in India; there may be advantages in increasing his power, by the patronage thus taken out of the hands of the home authorities.

798. What knowledge would he have of the civil service of Madras and Bombay; it being assumed that you would have him select for the government of each Presidency some one belonging to the civil service of the Presidency?

The Governor-general in Council, as such, has the same opportunities of knowing the merits of the civil servants at Madras and Bombay, as he has of knowing the merits of those in Bengal and Agra; if the Governor-general in Council ceases to be Governor of Bengal, he has no means of knowing anything of the qualifications and services of the civil servants of Bengal more than he has of knowing those at Madras and Bombay. The proceedings of all the subordinate governments are sent in abstract weekly by all those governments, and submitted to the Governor-general in Council, who thus has the same insight into the characters of those employed in the administration of all the Presidencies; indeed, he has those reports in much greater detail from Madras and Bombay than he has from Bengal and Agra.

799. Is not the Governor-general, in the selection of civil servants for promotion

motion in Bengal, practically guided very much by the opinions of those who surround him?

His secretary for Bengal, and those who are best acquainted with the members of the civil service, and with the candidates for vacant offices, must influence him.

800. What knowledge would he have, from those who surround him, of the character of the civil servants of Madras and Bombay?

He would not have the means of learning from personal intercourse, but he would probably be in correspondence with the Governors of Madras and Bombay. The supposition that he has better means of judging of the members of the service in Bengal, when he is no longer Governor of Bengal, than in the other Presidencies, assumes, of course, that he is always resident in the Presidency of Bengal; but that has not been the case; for several years past the Governors-general have been twice as long absent from Bengal as they have been in Bengal.

801. But they have been in the North West Provinces?

They have been in the North West Provinces.

802. Is not the service the same in the North West Provinces as in Bengal?

Nominally it is; but in practice the services are quite distinct from one another.

803. Are not the secretaries as often taken from the North West Provinces as from Bengal, for the civil service of the Government of India?

It has been so of late.

804. Assuming that difficulty to be disposed of, how would you proceed with regard to the management of the army; at the present moment the Governor of the North West Provinces has nothing to do with the army?

No.

805. Has the Governor of Bengal?

No, nothing whatever.

806. That is entirely under the Government of India?

That is entirely under the Government of India.

807. How would you deal with the management of the army in the subordinate Presidencies, supposing civil servants to be appointed to administer the civil portion of the government?

It has already occurred that civil servants have been Governors of Bombay and Madras, and I never heard of any difficulty or embarrassment arising from that circumstance in connexion with the Commander-in-Chief.

808. You would place the armies of the two Presidencies under the civil servants who were governors of those Presidencies, without councils?

I do not think the existence of a council, or the absence of a council, necessarily makes any difference in the connexion between the head of the administration and the Commander-in-Chief of the army; the Commander-in-Chief of the army, of course, must be under the orders and under the control of the head of the government, whoever may be the head of the government.

809. You see no difficulty whatever in placing the army under a civil servant, appointed by the Governor-general, and exercising the same power at Madras, which is now exercised by the Governor in Council at the Presidency of Madras?

I am not aware that any embarrassment would arise.

810. You stated that the Governor-general, of late years, has been much absent from Bengal (meaning thereby Calcutta), but he has never been resident in either of the Presidencies of Madras or Bombay?

Not of late years.

811. Therefore, probably, he has much more acquaintance himself with the qualifications of the civil servants of Bengal, than he can have with the qualifications of the civil servants of the other two Presidencies?

Certainly; more personal knowledge.

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812. Would not that circumstance form a ground of distinction between giving him the selection of the Lieutenant-governors of Agra and of Bengal, and giving him the choice of the Governors of the other two Presidencies?

Certainly; he might have a better opportunity of judging of their qualifications from personal knowledge in Bengal and at Agra, than he would have at Madras and Bombay, but I think he would have almost equal opportunities of forming a correct judgment of the characters and qualifications of the principal officers of all alike, from the proceedings that are laid before him from all the Presidencies.

813. Would there not also be this further distinction, that he would, after the appointment, be in constant personal communication with the individual appointed to the office of Governor of Bengal, which he would not necessarily be with the heads of the other two Presidencies?

That is always assuming that he is stationary at Calcutta.

814. And Calcutta does remain, in point of fact, the seat of government, though casual and accidental circumstances may sometimes cause the Governor's removal to another part of the Presidency?

Of course it is assumed to be the seat of Government.

815. Practically it is still considered the fixed residence of the Governor?

It is the only place where he has a fixed residence.

816. There is much more chance of his being there than at Madras or Bombay?

Certainly.

817. The Commander-in-Chief at Madras, and at Bombay, has a seat in the Council?

Yes.

818. Would it not make a great difference if the army in each of those Presidencies were placed under the entire control of a governor without a council; would not the Commander-in-Chief at one of the subordinate Presidencies, not having a seat in the Council in that Presidency (there being no council) be in a different position with regard to that Presidency from the Commander-in-Chief in Bengal, who has a seat in the Council of India?

He would be in a different position, but though the Commander-in-Chief in Bengal has nominally a seat in the Supreme Council, of late years he has rarely been present. I think Lord Gough sat a very short time in the Council, and I think that the present Commander-in-Chief has not sat many weeks in the Council, and perhaps will not return to the seat of government till he is about to leave India.

819. You were understood just now to suggest, that the uncertainty and shortness of the tenure of office in the Bengal Government was, in your judgment, productive of inconvenience?

Yes.

820. Do you consider, that with respect also to other offices in India, inconvenience results from the short period of service that now exists?

No, certainly not in practice. The only offices in India, the tenure of which is considered limited, are those of the governors, the Governor-general, and the governors of subordinate Presidencies, and the members of Council; and it is in the power of the Home Government to extend their terms of service whenever they think proper, and to any extent which they think proper.

821. But in practice are they extended, or is there a general limitation, and what limitation, to the tenure of those offices?

In practice I believe that all those offices are considered to be held ordinarily for five years, and no more.

822. Is there any absolute limitation in the appointment of a member of Council to the term of five years?

None whatever.

823. How many years did you yourself serve as a member of Council?

I served for six years; the Court of Directors extended my term for one additional year.

824. Did

824. Did you come home of your own choice?
No, I would have staid longer if I had had the option.

825. That is, if you had had the option of retaining that office?
Yes.

826. If you had chosen to remain in India in any other civil situation, it was at your option to do so?
It was.

827. With relation to the limitation of the tenure of those offices to which you have adverted, do you think that, practically, no inconvenience arises by the early withdrawal of public officers after they have acquired the experience of the number of years to which their appointment is limited?
I have no doubt that in many instances it must be desirable to retain an officer in his post at a time when he had rendered himself most efficient.

828. Would it often happen, that an officer would be willing to retain his post, if it were so permitted?
In many instances.

829. Supposing therefore, that in practice these periods o service were extended, do you think there would be any injustice or hardship in diminishing the amount of the annual emoluments; supposing, for example, that a person retained now for five years, might stay for ten?
I think that would be a matter of personal consideration; one man would rather enjoy a higher salary for a few years, and another would rather stay a longer period.

830. Do you not think, that it would be considered a very great hardship by a gentleman at the head of the civil service, expecting, and reasonably expecting, to be raised to the office of member of the Council, if the term of the existing members were prolonged to ten years from five?
Certainly.

831. The object is to prevent a check to promotion?
Yes; but that object can have no influence in the case of Governors and Governors-general.

832. But, in the case of members of Council, that would have to be taken into consideration?
In the case of members of Council, I presume that those who have the patronage in this country, when they select a member of Council, consider not only the benefit of India as involved in their choice, but the pecuniary benefit of the members of the civil service; viewed as a reward for past services, they may think it is quite sufficient to make a member of the civil service a member of Council for five years, and that when his term of five years is expired, he should make room for somebody else.

833. Have not the short periods of service to which you have adverted, in some instances, a tendency to increase the amount of retired allowances and pensions for past service?
In a very slight degree.

834. What is the expense to the public of those pensions of civil officers?
The civil servants in India, from the highest to the lowest, have a deduction of 4 per cent. made from their salaries; they originally agreed voluntarily to this deduction, upon a guarantee of the Court of Directors that, after a certain number of years' service and residence in India, they should receive from the Company an annuity of 1,000 *l.* a year, provided that their contributions by the deductions of 4 per cent. from their salaries had accumulated to half the value of that annuity, according to a table of the value of lives which was appended to the rules, or that the deficiency was paid up when the annuity was claimed.

835. So that, in point of fact, a public servant with a pension of 1,000 *l.* a year, is receiving only from the public 500 *l.* a year?
I believe he does not receive anything like so much from the public as 500 *l.* a year; the Company's nominal contributions to the fund which nominally provides these annuities, has been much less than they calculated would be required

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for the purpose when they gave that guarantee; notwithstanding which, a large sum, not less probably than 200,000 *l.*, of this nominal contribution remains unexpended; the value received from the public by each annuitant is evidently, therefore, far less than 500 *l.* a year, 300 *l.* a year would be nearer the mark; and the Court of Directors have shown great want of liberality in not repaying, out of the large sum unexpended, the excess subscriptions of some of the annuitants, amounting to about 60,000 *l.*, which, in consequence of their being no absolute rule for a refund, have been retained by the treasury in India; some of these annuitants have thus unjustly been forced to pay for their annuities of 1,000 *l.* a year, far more than they are worth; this has been the case in the Bengal Presidency only, where the Court of Directors have taken advantage of the want of a specific rule on the subject, to refuse a refund of that portion of the annuitants' subscriptions which is in excess of the rate at which they stipulated to grant annuities.

836. Can you state what ratio that 200,000 *l.* bears to the whole amount?

I do not know the number of annuitants now receiving annuities, therefore I cannot state that; but that fact is sufficient to show that the East India Company does not give pensions of 500 *l.* a year to the members of the civil service, and probably it will be found that what they really give is between 300 *l.* and 350 *l.* a year out of the 1,000 *l.* a year.

837. Do you know what is the average age of the retiring officers?

I have not seen any table to show what the age would be; but I should imagine it must be between 45 and 50 years.

838. Should you not consider that the pensions granted to the retiring officers have the effect of sending them home at a time when, from their experience, they would be best fitted to discharge their duties in India, and would therefore be likely to be most efficient as public officers in India?

I think not, generally.

839. Have you not observed that when military officers have returned to India, coming out to take divisional commands, on returning to India they have been found not so efficient as their former reputation had led those who appointed them to suppose them to be?

There may have been instances of that kind; but I do not think that is the general effect of returning to England.

840. Would it, in your opinion, be advisable to bring back officers, after a certain period of residence in England, to do civil duties in India?

I think certainly not, neither civil nor military; because there certainly have been instances of retired military officers who, after living for 12 or 15 years in retirement in England, have not been found so well qualified for the command of divisions and of armies as it was expected that they would have been, from their previous reputation.

841. But notwithstanding that, is not the Governor-general in a great degree, on account of his seniority, obliged to employ those officers?

Unfortunately, under the present system, he is almost compelled to employ them.

842. Therefore, in the military service, you think it is not advantageous that officers should continue their services for any very lengthened period in India?

I think it is inexpedient that a field officer who is now permitted to return to do duty in India, after remaining 12 or 14 years in England, should be allowed to return to India to hold any command there at all.

843. Is it not a fact that a man at the age of 50, after continuous service in India, is not to be considered, as regards age, as the same man that he would have been if he had lived quietly in England?

In general he will be more worn out at that age in India.

844. In giving that opinion would you not make great exceptions?

I think not.

845. For instance, had not Sir Walter Gilbert been absent nearly 20 years in this country?

Yes;

Yes; but I look upon Sir Walter Gilbert as having extraordinary vigour of constitution; he is quite an exception to the general rule.

846. Speaking generally, from the important duties imposed upon public officers in India, in the civil as well as in the military service, is there not required an amount of strength and personal activity and energy, which makes it very desirable that they should be enabled to return to England before they have attained the age of 50 years, when their qualities would be likely to become in some degree impaired by service in India?

Speaking generally, there can be no doubt that after many years spent in India, and at the age of 50, it is desirable that officers should be relieved.

847. Is not the situation of a member of the Council considered as the great prize in the civil service, which all men most distinguished for their ability and station are desirous of obtaining?

I presume so.

848. Is not it the only situation which enables a man to save extensively, so as to be enabled to retire to this country with a sufficient income?

In the present reduced scale of the allowances of the civil service in Bengal, I imagine that, in the ordinary run of preferment, a man must spend 25 years in India to qualify himself to retire, without having made anything equal to 1,000*l.* a year. A man must be very lucky indeed, and very prudent too, if in 25 years he has saved out of the emoluments he obtains in India, 1,000*l.* a year.

849. With ordinary good fortune in the appointments he has received?

With very good fortune; he must have been more than ordinarily fortunate.

850. The tenure of office of a member of the Council for five years would about enable the possessor of it to double that saving of 1,000*l.* a year?

It would enable him to do more than that, by the accumulation of interest on his former savings. I conceive that a member of Council ordinarily will save 30,000 *l.* out of the 50,000 *l.* that he receives during his tenure of that office.

851. Have the Court of Directors any other mode of rewarding a meritorious public servant, except that of appointing him to the Council?

No; they have no other means, except appointing him governor of one of the subordinate Presidencies.

852. Which, practically, they are not allowed to do, in consequence of the interference of the Board of Control?

Of course not without the Board's concurrence.

853. Is not the consequence of that, that there is always a disposition on the part of the Court of Directors rather to look to past services than to future efficiency in the nomination of members of Council?

That I hardly know, never having been in the councils of the Court of Directors.

854. Should not you say so, from knowing the persons who have been appointed, taking a long succession of years. Should you not say that they have been chosen rather as men distinguished for past services than for their efficiency for the particular service to which they were appointed?

I have no doubt that they have been selected on account of their past services, but those services would be the best earnest of future excellence of service.

855. Should you see any disadvantage in giving a veto to the Crown upon the appointment of members of the Council?

No, I am not aware of any objection whatever.

856. Is the Council, as at present constituted, very much overworked by the duties imposed upon it?

No, I think not.

857. In deciding upon the financial appeals from the other Presidencies, is it not called upon to exercise a knowledge which it has not?

I am not aware that the members of the Government are ignorant, especially of financial matters, and they have a financial secretary, who is at the head of the finances of all India.

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858. The question had reference rather to ignorance of the local details relating to those Presidencies from which the applications for the expenditure of funds come?

As I have mentioned before, I think it would be very desirable that the Presidencies of Madras and Bombay should have, in the Council of India, somebody to represent them, and to represent their wants and their position. There is no doubt that we have often acted, in the Council of India, in ignorance of matters of detail connected with Madras and Bombay, but not particularly with regard to finance. The finance is the very department which we could best understand, without local knowledge, because it has no local peculiarities, it is a mere matter of figures.

859. Do you not consider that it was a great improvement to have a financial minister, in place of the old arrangement, of having only an Accountant-general?

I think it was a great advantage having a financial officer brought into the Council.

860. And India happens to be particularly fortunate in the selection of the officer, Mr. Doring?

He is a very able and effective officer. I was asked whether the duties of the members of Council were not too onerous? I said, "No." The reason why I say that, is, that from the very mode in which the business of the Council is conducted, the responsibility of almost every measure or decision is taken virtually by the Governor-general or by the President of the Council. I mentioned before, that all the papers which are the subject of discussion in the Council, are first circulated among the Governor-general and the members of the Council, before they come to consider them in Council. As they pass through this circuit, the Governor-general, or the President, to whom they are first sent, has to master the contents of the papers in each particular matter, and he has then to put in writing his opinion upon the subject; and, perhaps, in one case out of ten, he has to take a sheet of paper, and to write a note or a minute of what he proposes. The labours of the Governor-general, or of the President of the Council, are, in consequence, heavy. The other members of Council find an opinion already recorded in each case, as it is submitted to them. This, in many instances, saves them the trouble of going through all the correspondence. If they see sufficient, *primâ facie*, to satisfy them that the opinion expressed by the Governor-general is a correct one, they may assent to it, by attaching their names or initials to the opinion. The responsibility of the members of Council is not so great as that of the President, and his labours are, consequently, less. Cases that have thus been disposed of, are not brought and discussed before the Council again. Formerly, when I was first secretary to the Government of India, every case was brought into Council, to be discussed there, the papers having been already seen by each member. The present improved practice of disposing of business was introduced by Lord Ellenborough. It abridges labour, and the time spent in Council, without depriving any member of the Council of an opportunity of discussing any matter; for as the papers pass from the secretary's office in circulation, first to the Governor-general, and subsequently to each member of Council in his turn, the Governor-general, or any member of Council, writes on such cases as he wishes to have brought up for discussion, the word "reserve," when it is the duty of the secretary to bring up such case for consideration on the next meeting of the Council.

861. Did not the mode introduced by Lord Ellenborough, to a considerable extent, obviate discussions in the Council?

Very considerably.

862. Does not your account of the proceedings of the Council almost represent the office of councillor as, to a great extent, a sinecure, except with regard to the President of the Council?

No, by no means; because, although I say that in a great many cases every councillor may not find it necessary to go into detail to master a subject, relying in some degree on the opinion of another, I do not mean to say that he neglects his duty, but that he is not compelled, from his position, to form an original opinion upon a great majority of the cases that are submitted for his consideration;

consideration; whereas the Governor-general or President of the Council must master the subject, and form his own opinion, unaided by that of another.

863. The person who presides in the Council always has the papers first?

Always; with exception to matters of a legislative nature; those used to be all sent first to the fourth ordinary member of the Council, that is, the law member of the Council, and when he returned them to the secretary, with any remarks he had to offer, they were circulated among the lay members of the Government.

864. You have spoken of the great inconvenience which has been suffered from frequent changes, in the course of the last nine or ten years, in the person of the Deputy-governor of Bengal; what is the rule by which the Deputy-governor is elected from the members of Council?

By the Act of 1834, the Governor-general in Council may appoint any member of Council Deputy-governor of Bengal; in practice there have been no Deputy-governors appointed except by the Governors-general when about leaving Calcutta, and they have then appointed the same person Deputy-governor that was appointed President of the Council; and as the first appointment that was made was of the member of Council, it has become the practice always to appoint the senior; a departure from that practice would have been a serious personal reflection on the senior member, and might have led to inconvenient consequences; then, it has happened, that the senior in the Council has, at the time of his election as President, already been four years in the Council, or four years and-a-half, and as he resigns at the end of his five years, the next member to him becomes senior, and succeeds to be President; and it happened in the time of Lord Auckland, when I was absent from Calcutta, as secretary with Lord Auckland, that there were three successive Presidents of Council during his absence, and the President in Council was also Governor of Bengal; on this account I said, that Bengal suffers an unfair disadvantage in never long having the consecutive continued services of Governor.

865. That disadvantage arises from the application of a rule, which is not law, but which has obtained in practice, of always appointing the senior member of Council?

Yes.

866. From the account which you gave just now of the duties which devolve upon the Deputy-governor and the President of the Council, it would appear to be of the highest importance that the most able and efficient public servant among the members of the Council should be chosen to fill that place, inasmuch as he takes the chief part of the labour and responsibility upon himself?

Yes, if the selection is to be made from among the members of the Council at all.

867. Does not that furnish another reason, in addition to the reason which arises from its being desirable to avoid the frequent changes which now take place in the office of Deputy-governor, for adopting some other rule than this rigid adherence to seniority in the selection of Deputy-governors?

It does to a certain extent, but whoever from among the Councillors may be appointed to be Deputy-governor of Bengal, the probability is, that he will remain but a short time such, and if it is near the end of the period of a Governor-general's stay in India, a new Governor-general comes, and probably takes upon himself the government of Bengal, so that there can be no security, under the present system, for any permanency in the office of Governor of Bengal, while he is selected only from among the members of the Council.

868. But according to the present practice, you are quite certain of having as many changes as possible in the shortest possible time?

You have the most frequent changes possible under the present system.

869. Does not what you have stated prove the importance of having the Governor of Bengal a distinct officer?

That is the main object I would endeavour to enforce, the importance of having a permanent Governor.

870. If a member of Council be appointed for the office, would it not be better in that case to make his service of five or six years, as the case might be, date from

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from his first appearance in the character of Deputy-governor of Bengal, and not to let his previous service as a member of Council count against him?
That would be giving him a great extension of emoluments.

871. But otherwise, must not the office still be exposed to these rapid changes?
No, my object would be to appoint a Governor of Bengal, without any reference to his being or not being a member of Council.

872. But you would not exclude a man from being Governor on account of his being a member of the Council?
No, but if I did select a man that was a member of Council, I would keep him as Governor for five years.

873. Then you would extend his period of service, by not letting his previous service in the Council count against him?
I think it is desirable, that when a man is appointed at the head of the Government, he should continue for five years.

874. Do you think it important that the Governors of Bombay and Madras, in general, should always have been members of the civil service of India?
I think that if we deprive the Governors of Bombay and Madras of their Councils, it would be most desirable that the Governors should be men of local experience, and the civil service would probably furnish the best men for that purpose.

875. But supposing the Council were continued, would you still think it important, that the governors of those subordinate Presidencies should be men of local experience?
It is desirable, of course, that they should have had local experience; but I think it is by no means indispensable.

876. Do you think it important that a good deal of power should be left to the Home Government, in making the most important appointments; and that they should not all be concentrated in the hands of the Governor-general?
I never contemplated the creation of such a power as the Governor-general would possess if he had the nomination of all the subordinate governments.

877. You do not think it would be desirable altogether to concentrate all those appointments in the Governor-general of India?
Scarcely so.

878. Would it not be important to retain that kind of dignity in the Home Government, which arises from the exercise of independent appointments?
I am not aware that the Home Government can derive any accession of dignity from that source.

879. Do not you conceive that, if they had nothing to do with the appointment of any persons in the government of India, except the Governor-general, they would have less importance than if they had also the appointment of the governors of the subordinate Presidencies?
Probably so.

880. The Governor of the North West Provinces makes an annual tour through the country; have the Bengal Provinces been visited by any governor for a long series of years?
No; it is one of the consequences of the government of Bengal being in the hands of the Governor-general, or being perpetually shifted from the hands of one man to those of another; the Governor-general in Council cannot go about; he cannot visit the different parts of Bengal, and never has done, nor attempted to do such a thing; the only attempts that have been made in this century, that I am aware of, have been confined to such little excursions as had tiger-shooting for their object, as much as anything else.

881. You think there is advantage in the Governor or Lieutenant Governor visiting different parts of the Presidency under his charge?
I think the greatest possible advantage may result from the Governor moving about, and becoming personally acquainted with the country he governs.

882. Do you think, therefore, that the restrictions imposed upon the movements

ments of the governor in the subordinate Presidencies of Madras and Bombay are impolitic?

I should not think of imposing any restrictions upon a governor's movements about his territories for the public advantage.

883. You have stated that the Court of Directors have sometimes refused to allow of expenditure upon works most expedient and necessary, recommended by the Governor-general in Council; do you understand that the Government of India have sometimes refused to sanction the expenditure of the subordinate governments, which has also been most expedient and necessary?

No doubt.

884. The Lieutenant-governor of Agra is always a member of the Bengal civil service?

He always has been.

885. Are you aware of the relative per-centages of the net revenue expended upon works of public expediency and necessity in the North West Provinces, and in the Presidencies of Madras and Bombay, respectively?

The per-centage of expenditure on the revenues in the North Western Provinces, in the last four years, has very far exceeded the per-centage on the revenues that has ever been expended in Bengal, or, as I believe, in Bombay or Madras; but that arises from the Government having sanctioned an unusually large expenditure on a canal of very great extent, and of very great prospective financial advantage—the Jumna Ganges Canal.

886. Has it ever occurred to you whether it might or might not be desirable and practicable to increase the number of councillors, for legislative purposes, by adding to the Council a member from each of the other Presidencies, still confining the Council, for executive purposes, to its existing number?

If, as has been suggested in the course of my examination, the Councils were abolished at the subordinate Presidencies, and a member of Council was sent to the Council of India from Madras, and another from Bombay, I think then you would have all the means of concentrating local knowledge that appear to be desired.

887. In your opinion, would there be any advantage in having a supreme Legislative Council at Calcutta, in which all the Presidencies should be represented, in addition to a separate Executive Council for each Presidency?

I am rather inclined to think, that if you increase very considerably the numbers of the members of Council, it would be desirable to have an Executive Council, distinct from the Legislative Council, for this reason,—it would perhaps be taken into consideration before the Charter Act is revised, whether, in the absence of the Governor-general from the seat of government, it would be expedient that an Executive Council should accompany him; and if any measure of that kind should be adopted, I think it is quite evident that it would be exceedingly inconvenient that that Council should be numerous. It would be quite sufficient for all the purposes of the executive that, we will say, two or three, at the utmost, of the members of the Executive Council might accompany the Governor-general, a portion of the Council remaining for the discharge of legislative duties at the seat of government, during the absence of the Governor and the Executive Council.

888. The law, as it now stands, does not prevent the Governor-general from being accompanied by his Council, if he goes from Calcutta?

No, it does not; but the Governor-general, under the present law, if he does travel, accompanied by the Council, must be accompanied by the whole Council, which would entail the necessity of carrying about cart-loads of records, and an immense retinue of clerks and assistants of the secretariat, which would render it almost impossible, practically, that the Governor-general should think of moving about. By the arrangement I have suggested, the members of the Council would separate themselves into two Councils—one Council, the Legislative Council, which would remain at Calcutta for the purposes of legislation, and probably also for managing some of the details of the administrative branches of the government; and the other, the Executive, which should be as small and compact a body as possible, for the purpose of diminishing the expense of moving about.

 889. You

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889. You have stated that the senior member of the Council has invariably been made President of the Council on the departure of the Governor-general, without special reference to his qualifications for that appointment; would not the President of the Council so appointed, on account of his being the senior member of the Council, have become, under the operation of the law, Governor-general, in case of the death of the Governor-general?

Unquestionably; but he would equally have become Governor-general, even though a junior member of the Council had been selected for the other office. He, as senior member of the Council, on the death or resignation of the Governor-general, becomes, by law, Governor-general.

890. The Governor-general never takes his Council with him when he is absent?

Never; when I say "never," I think Lord William Bentinck was absent with a portion of the Council in the Neilgherry Hills, in the Madras territory, at the time when the Act of 1834 came out; he thus became Governor-general under that Act while he was in the Neilgherry Hills.

891. Was it not found necessary, in consequence of that, to pass an Act indemnifying him, inasmuch as there was, in fact, no government at all?

Yes.

892. In a case in which the Governor-general is resident at Calcutta, he acting at the same time as Governor of Bengal, is there any mode in which practically, though not nominally, he relieves himself of the details of the local government of Bengal, he being charged at the same time with the general government of the whole of India?

It is actually done: Lord Ellenborough, when he returned from the North West frontier to Calcutta, continued Mr. Bird as Deputy-governor. Lord Hardinge continued me in charge of the government of Bengal after he returned to Calcutta, as long as he remained in India.

893. Had that measure not been adopted by Lord Ellenborough and by Lord Hardinge, they could not otherwise have relieved themselves from the details of the government of Bengal?

No: in both those cases it was considered that although in the former case Mr. Bird had already been appointed Deputy-governor of Bengal, and in the other case I had been appointed Deputy-governor of Bengal, on the return of the Governor-general those appointments ceased to be in force; and that in order to enable Mr. Bird, in Lord Ellenborough's time, and myself in Lord Hardinge's time, to continue to discharge the duties of Governor, it was necessary for the Governor-general in Council to re-appoint us, and we were re-appointed.

894. Might there not be a permanent arrangement of that nature, whereby the Governor-general should be habitually relieved from the necessity of going into the details of the government of Bengal?

I consider it most essential that the Governor-general should be entirely relieved from the details of the government of Bengal.

895. If those appointments or re-appointments had not been made, there would not have been any mode in which he could have relieved himself from the details of the government of Bengal?

No.

896. From your experience, do you think that any great advantage has been derived from the change that was made by the Act of 1834, by the institution of the Legislative Councillor, so giving a new mode and form to the legislation of India?

It appears to me, that the objects of the Legislature, in appointing the law member of the Council, and in appointing the Law Commission, have generally failed.

897. With reference to the fourth ordinary member of Council, the Legislative Councillor, is it your opinion that the objects contemplated by the Act have or have not been obtained?

Only to a moderate extent.

898. To

898. To what do you attribute the fact that they have not been fully attained?

I consider that the failure of the Law Commission to effect the objects for which it was constituted has deprived the legislative member of the Council of the opportunity of a great deal of service, which he otherwise could have rendered, he being the President of the Law Commission.

899. But the fourth member of the Council has other duties which are not connected with the operations of the Law Commission; with respect to those duties, do you consider that that appointment has failed to produce the useful effects which were contemplated?

It has been very useful to a certain degree, but not to the extent that it would have been if the Law Commission had produced such matured plans of law procedure and civil and criminal process as would have given occupation to the fourth ordinary member, and all the other members of government, in legislating on those general points. Though the fourth ordinary member has had no comprehensive task of that kind to employ himself upon, he has been usefully engaged in preparing numerous Acts on different desultory subjects, which the Council has had to consider and pass

900. Do not you think that legislation in India might proceed equally well without any official appointment of a fourth ordinary member of Council, for the sole purpose of legislation?

No, I do not think that it could proceed as well; at least I think that if we dispensed with the fourth ordinary member of Council, it would be very expedient that we obtain the service of some other qualified lawyer.

901. Has not the Government of India at its command the services of a properly qualified lawyer for the ordinary business?

It has the services of the Advocate-general, but the Advocate-general is not ordinarily of that high standing in his profession that it would be desirable to have to assist the Governor-general, and direct the legislation of India.

902. But supposing that any change were made which should make it requisite that such a law officer should be so qualified, would there be any difficulty in finding a man so qualified?

I should suppose not.

903. Would there not be very great practical advantage in having at all times at the disposal of the Government, in the due exercise of its legislative powers, some person conversant with the phraseology of Acts of Parliament, and capable of framing the regulations in such a manner as to be perfectly intelligible to all who are called upon to read them, and to act upon them?

No doubt; but the most important point in the intelligibility of the laws of India is, that they should be capable of being made intelligible to the natives of the country, to the millions who are affected by them.

904. But before they can be made intelligible to the natives, must not they be made intelligible to the Englishmen who are to execute them, particularly by uniformly using the same words to express the same things; practically, have not the regulations been written by many different persons, few of whom, if any, were conversant with the law, and written in such a manner as not to give a clear exposition of the intention of the legislator?

I do not know; for the last eighteen years the Acts have been either drawn up or revised by men conversant with law phraseology.

905. The question refers to the previous period, before they had that assistance?

There is no doubt that the regulations were formerly drawn up by different hands, and that the phraseology of the English law was not thought of importance.

906. Is not it difficult sometimes to translate the phraseology of the English law into the native languages?

That was the case with the draft of the penal code, which was the first fruits of the labours of the Law Commission, during the time that Mr. Macaulay presided over it. I have a moderate knowledge of the native languages of India, and it has always appeared to me that it would have been impossible to translate that code so as to make it intelligible to the people of all parts of India.

 907. Are

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907. Are not the Regulations and Acts of the Government of India, generally speaking, more intelligible than an English Act of Parliament?
To me, or to laymen in general, I think they are.

908. Are not they much more intelligible to a common reader?
I think so.

909. Much more free from technical phraseology?
And with much less repetition.

910. Why has not the Law Commission produced the results which were expected from it?
That I am not competent to explain.

911. They have not matured their labours?
They have effected but a small part of what was anticipated from them. The only approach to codification was that penal Act of which I speak, which was perhaps not the most important branch of the law for them to have taken up.

912. Even of that penal Act, the success has not been complete?
It has not yet been passed.

913. Were those difficulties attributable to them, or to others, and, if to others, to whom?
I am not aware of their being attributable to any others.

914. You are not aware of any difficulties thrown in the way of the labours of the Law Commission, and their attempts to reduce the laws of India to an approach to a more systematic code?
No, I am not aware of any obstacles thrown in their way.

915. What has prevented their object being carried into effect?
Members of the commission will be better able than I am to answer that question.

916. Why has not the penal code which they prepared been made law?
It was much canvassed and criticised in India, and many contradictory opinions have been expressed regarding it; but the Government has not ventured to pass it into a law. Some three or four years ago, the Government directed that a translation should be made of some chapters of it into Hindostanee; but the task was so difficult, that I have heard that the natives of the country were unable to comprehend the translation, and the draft was shelved.

917. Are there fundamental difficulties in the way of making a code which shall be intelligible to the various races of India?
No, I do not think so; I think that, in respect to this, the difficulty arises from the mode of expression which has been adopted.

918. How long back would you fix the date when that code was shelved, as you have stated?
I am not aware that the Government has ever seriously taken it up, with a view to passing it.

919. Under an impression that it was not practicable?
Yes.

920. In what state is it now?
I am unable to state what has been done since I left India, nearly three years ago. When I left India, nothing was doing or had been done with respect to it for some time previously.

921. While you were in the Judicial Department, did the civil or the criminal proceedings come most under your cognizance?
I was a very short time employed in that department, and then I had both civil and criminal duties to discharge.

922. Are there not many things in the penal laws of the country which do require amendment?
I dare say there are a great many points which may be amended.

923. Have you a recollection of certain prisoners having been found in gaol at Allahabad, who had been there seven years, and who were confined for life under the

the law, because they could not produce a person whom they were accused of having murdered?

No, I do not recollect that circumstance; I may have heard of it, but I do not recollect the particulars.

924. Has there not been a professional indisposition on the part of the lawyers of India to countenance changes in the law; and has not that been an impediment in the way of the progress of the code?

I am not aware that that feeling has interfered at all with the progress of the penal code; it has probably operated in some measure in preventing or delaying improvements that have been attempted in the procedure of the courts.

925. Have not considerable changes been made, independently of the action of the Law Commission, in the administration of the law in India; for instance, with respect to the exclusive claim of Europeans to be tried before European Courts in civil cases?

Yes; there have been a great number of beneficial measures of the legislature in the last 18 years.

926. Have there not been many and great changes in the mode of proceeding?

Yes.

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned till To-morrow, One o'clock.

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THE LORD PRIVY SEAL in the Chair.

WILLIAM WILBERFORCE BIRD, Esquire, is called in, and examined as follows:

927. WILL you state what offices you have held in India?

I went out to India in 1803, and, after leaving college, I was appointed in the judicial department to Benares, where I remained about a dozen years. I arrived there as an assistant, and I remained until I was judge and magistrate. From thence I was removed to the Special Commission, Revenue and Judicial, at Cawnpore, for the purpose of inquiring into the validity of sales of land brought about by undue influence for arrears of revenue. I remained sometimes at Allahabad, sometimes at Cawnpore (the jurisdiction of the Commission extending to both those districts) until 1828 or 1829, when I went to Calcutta, and was employed in the Resumption Commission. I was soon after appointed member of the Sudder Board of Revenue for the lower provinces. From thence I was appointed to the Council of India, where I remained upwards of six years, during which I was several times Deputy Governor of Bengal. I was also President of the Council of India, and I succeeded, on the departure of the Earl of Ellenborough, to be Governor-general in Council and Governor of Bengal. There I remained till the arrival of Lord Hardinge, when I was again appointed Deputy Governor of Bengal; and soon after I returned to England, having served upwards of 40 years.

928. The Committee obtained yesterday information as to the composition of the Council of India, and as to the mode of transacting business in it; it will therefore not be necessary to put any questions to you upon that subject. But can you suggest to the Committee any alterations which, in your opinion, it might be advisable to make in the constitution of the Council of India, either for executive or for legislative purposes. First, as to executive purposes?

As to executive purposes, I think the Government of India is defective, inasmuch as it has no representative from the Presidencies either of Madras or of Bombay. It would be a great advantage if there were a Member of Council from each of those Presidencies, in order to assist the Governor-general in the same way as he is assisted in the government of the rest of India; and I think also that the arrangement by which the Government of Bengal is confided solely to the Governor-general is objectionable, there being no reason, as far as I know, why, if he retains the Government of Bengal, the Council of India should not assist him in the management of that province.

929. Would not the addition of two members of Council, one from Madras, and the other from Bombay, be yet more advantageous to the Council in dealing with legislative matters affecting those two provinces?

There is already a legislative member who is employed in the drawing up of all Acts affecting the whole country; I do not see why the members proposed for Madras and for Bombay should be restricted solely to the duties which are generally performed by the law member; it is just as necessary, it appears to me, that they should be employed in assisting the Governor-general in the executive administration as in the judicial. Many questions continually arise in matters coming from both those Presidencies, upon which an officer who has been bred up in the service would be of great advantage in the way of explanation, just as the other

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Councillors have assisted in all questions of an executive nature which come from Agra or Bengal.

930. In point of fact, can the Governor-general in Council, without such assistance, deal in a manner satisfactory to himself with questions relating solely to Madras or to Bombay?

I should think not. I remember, on several occasions, when there were questions arising connected with Bombay or Madras, that we felt considerable difficulty in consequence of the absence of members from those Presidencies?

931. Have there been within your knowledge any occasions on which measures have been proposed with respect to Madras or Bombay, by which, on representations from those Presidencies, and the acquirement of additional knowledge upon the subject, the Governor-general in Council has seen reason to reverse?

I recollect that, on several occasions, such as the establishment of the Bank of Bombay, and the Bank of Madras, considerable delay and inconvenience was experienced in the Council of India from the want of that local knowledge which persons brought up at those Presidencies would have been able to afford.

932. Does not the want of local knowledge within the body of the Council lead to a great deal of correspondence with the Governments of Madras and Bombay, which would be avoided if they had a representative in the Council?

Certainly.

933. And a great deal of delay in the transaction of business?

Certainly; I think it would be very satisfactory to those Presidencies if a member from each of them were associated with the Governor-general in Council, so as to afford verbal explanation, which would render unnecessary that correspondence.

934. Would not that inconvenience be equally obviated if greater latitude were left to the Governors in Council of those Presidencies?

In such matters latitude might be allowed; but I am not capable of determining whether it would be equally satisfactory.

935. Do you propose that the members of the Council of Madras and Bombay, who should be introduced into the Council of India, should be at the same time members of the Council of the other two Presidencies?

No: what occurred to me was, that a member should be selected from Bombay and one from Madras, to represent each of those Presidencies in the same way as the other members represent Agra and Bengal.

936. Is care usually taken, in forming the Council, that there should be representatives of Agra and of Bengal in the Council?

At this moment it is so; but I fancy it is accidental. The services of those two Presidencies are still united, and it is possible that both members may have been brought up in the same division only, or they may have been brought up in both.

937. Do you think that there is anything in the mode of transacting business before the Council, at present, which leads to any delay which might be avoided?

No, I do not think there is, allowing due time for the consideration of every question by the different members of Council. I am not aware of any other arrangement that could be made which would expedite the business. It depends a good deal upon the secretary. The whole of the papers, after being circulated, are brought before the Council for orders, and as soon as the orders to be passed are agreed upon, they are carried into execution without any delay.

938. Was not the business, in fact, considerably expedited by a new arrangement made in the year 1843?

Yes, I think the business has been greatly expedited since 1843, by the arrangement adopted at that period.

939. In former times the Council was composed of the heads of departments. Do you think it would be possible to revert to that arrangement, or to adopt an arrangement of a similar nature by the selection of persons as members of Council who have been in the Judicial, Political, and Revenue Departments respectively?

I believe

I believe in former times it was the Councillor who was appointed to the head of the department; it was not the head of the department who was appointed to the Council.

940. As it is at present at Madras, where one member of the Council is always the head of the Revenue Board, and the other the head of the Sudder Adawlut?

Yes, I believe that is the case. My opinion is, that the Council should be selected from those public officers who have had the greatest experience in different departments of the service. The man who is best qualified for the Council, is the man who has seen most service in most departments.

941. Are you of opinion that, generally speaking, gentlemen who have filled the situations of secretaries are the best qualified and fittest persons to act afterwards as members of Council?

The secretaries generally have been employed in the earlier periods of their service in what we call the Mofussil, or the interior of the country, in one situation or another. The secretary is best qualified for those duties who has seen most service, and has had the most general experience. I should say that a man who had been only a secretary, if there were such a person, would not be the best member of Council that could be selected.

942. His knowledge would be confined altogether to Calcutta, and to a particular department?

Yes. I remember particularly, in Lord William Bentinck's time, Mr. Thomason, who is the present Lieutenant-governor of the north-west provinces, was removed from the secretariat, for the sole purpose of gaining Mofussil experience, that is to say, the experience which is afforded by employment in the interior; and it made him what he is, an extremely competent officer, who discharges his duty, I believe, with great satisfaction to the Government of India and to the community at large.

943. Do you think that any advantage would be gained by altering the provision of the law by which the person who is called the Legislative Councillor, the fourth ordinary member of Council, is at present not allowed to sit and to vote, except upon questions relating to the laws and regulations, so as to enable him to sit and vote upon all occasions?

He sits in the Council on all occasions at present.

944. That is by sufferance?

By sufferance; I believe the Act does not allow him to sit, but by sufferance he sits, and I think it is very advantageous that he should sit, because coming, as he does, from England, without any oriental experience whatever, I think that unless he observed the working of the Government, and had an opportunity of seeing cases as they arise, he would not be competent to afford the advice and assistance which are required.

945. But as the law now stands, he is not entitled to sit, except upon legislative questions?

He is not.

946. Is he allowed to take any part in the discussion of other questions that arise?

He sits at the same table as ourselves; and if questions arise regarding anything on which he is better informed than we are, we refer to him, as a matter of course; but he has no power to vote, except on legislative questions.

947. Do you think there would be any advantage in retaining the Council, as now constituted, with the addition of a member from Bombay and Madras, for all executive purposes, and making additions to the Council for legislative purposes?

I think the whole of the legislative duties can be very well performed by the one member of the Council, who is already appointed for the purpose.

948. By "legislative duties," you mean only the drawing up of Acts which are proposed to be passed?

Yes.

949. But every law is, in fact, passed by the Governor in Council?

Yes.

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950. Would there, in your opinion, be any advantage in extending the Council in number for legislative purposes only, leaving the Executive Council as it stands, taking, for instance, the heads of departments in Calcutta, and adding them to the Council for legislative purposes?

No, I do not think there would be any advantage. The members of Council, if they are properly selected, are perfectly acquainted with all those questions which would be necessary to assist the legislative member in drawing up Acts. I think that no legislative member could be qualified to afford any real or essential assistance in the drawing up of laws without he had an opportunity of seeing the working of the Government itself. The same reasons which were given for allowing the legislative member to have a seat in the Council, to see all that was going on, would be equally applicable to all other persons who might be joined with him in the performance of legislative duties.

951. Except that they would have a knowledge of the department to which they belonged?

They would have a knowledge of the department to which they belonged, but they would not have a knowledge of the general working of the Government.

952. Do you think it would be possible, and, if possible, advisable, to constitute, at the seat of Government at Calcutta, bodies of Mussulmen and Hindoos respectively, to which bodies might be communicated for their consideration and opinion, without giving them any further powers, all intended Acts of the legislature bearing upon the laws, customs, and religion of the two bodies of Mussulmen and Hindoos?

I think that the Government at present possess the means of consulting all who are sufficiently qualified to be consulted on those occasions. References can be made through the Sudder Dewanny Adawlut, or through the Boards of Revenue, on any subject for the opinion of competent natives, so that it would be easy to obtain all the information that can be necessary; but I doubt whether it would be proper to give official authority to any bodies of natives as assessors and advisers of the Government.

953. It was mentioned by a former witness, that, with a view to consult the feelings and wishes of the native population, it was the habit of the Government of India to publish in the newspapers proposed laws, with the view of gathering the opinion of the native population upon them; is that so?

Yes. Every draft of an Act is published in the Calcutta papers long before it is passed, for the purpose of enabling either natives or Europeans to submit any objections or any suggestions which they may have to make.

954. May there not be cases in which it would be undesirable to consult, or to intimate beforehand, the intentions of the Government with reference to a proposed law?

No; I do not think any inconvenience has been found from that practice; on the contrary, great advantage has been derived from it.

955. Is that communication required to be made any given time before the promulgation of the law?

Before a law is passed, there is a certain time specified in the draft Act for the second reading, until the expiration of which nothing is done, and then there is ample time allowed if it relates to Bombay, or Madras, or Agra, for representations to come from those Presidencies.

956. What is the time for which the proposed law is required to be before the public?

There is no exact period required; but there is generally time enough allowed. It depends, of course, upon the nature of the case. If the law affects merely the locality of Calcutta, there is less time; if it relates to Bombay or to Madras, then more time is allowed.

957. Do you know whether those intended Acts are translated into the native language of the district particularly affected?

Not before they are passed.

958. May they not appear in the native newspapers, and be circulated in that way?

They may; but I do not think it is done by authority.

959. There

959. There is no provision made that they shall be so translated?
I think not: there is no native paper published by authority; they are merely private publications; the Government do not support any native paper.

960. Would there be any difficulty in having copies of such intended Acts affixed to certain public places at important points of the Empire?
There would be no great difficulty; but the knowledge of English is now so extended among the natives at the different Presidencies, that it is hardly necessary. In some cases the Acts are not very easy to translate. For instance, technical expressions in matters of English law are of that character, and I have even seen it stated that they are untranslatable. It would be superfluous, perhaps, on the mere publication of the draft Act, if an accurate translation of the intended law were always required.

961. Will the laws be intelligible after they are passed, if they are not intelligible before?
Of course the laws are more easily translatable when the objectionable parts have been removed than before, and the English language is so extended among the people at Calcutta, that little difficulty is experienced in obtaining a knowledge of what is intended to be enacted.

962. Practically speaking, have you known instances in which, in consequence of these publications of intended laws, remonstrances or statements have been made which have been considered in Council, and which have either been set aside, as unworthy of notice, or have led to modifications of the laws?
Yes; there have been many instances of laws having been modified and altered, and even not passed, in consequence of representations on the subject. There is a great desire to learn everything that can be urged from all parties interested therein.

963. It is for the interest of the Government itself that those communications should be made?
Certainly; the Government is most desirous of obtaining all information upon every point.

964. The Committee understood you to say, that there are advantages connected with the presence of the Legislative Councillor in Council, by teaching him the mode of doing business, and the nature of the business to be transacted. Do you conceive that there may be also correlative advantages to the Council itself in having the presence of the Legislative Councillor in their deliberations?
No doubt: before there was a Legislative Councillor, the regulations and laws were generally drawn up by the member who may have happened to suggest the alteration, and they were often very loose, and sometimes difficult to comprehend; but I think that since there has been a Legislative Councillor, that inconvenience has, in a great measure, been remedied.

965. Do you think there is advantage in the Legislative Councillor, before he undertakes the difficult task of drawing up a law, being made aware, by actual discussion in the Council, what are the practical objects which the Council has in view, and which it must be his professional object to realize in the law which he frames?
Undoubtedly.

966. Do you think that those advantages could be gained to the same extent, or with the same certainty, by any mere written instructions, if the Legislative Councillor himself were not a party to any deliberation or discussion which may take place?
I do not.

967. Although on ordinary occasions the draft of the intended Act is published in the newspaper some time before the second reading, in cases of emergency does not the Government proceed at once to legislate, as in this country is done by suspending the Standing Orders?
Yes; the rule of publishing beforehand is suspended.

968. Is that only a rule adopted for convenience, or is it compulsory by law?
There is no law upon the subject.

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969. The measure for the resumption of the rent-free tenures was done by an Act?

It was done by a regulation.

970. And all changes of that character would be done by Acts?

Certainly.

971. Has there been any tendency since there has been an English lawyer sitting at the Council, to introduce more technicality into the construction of Acts, and so to increase the difficulty of their interpretation?

No, I do not think there has; if any such technicalities unintelligible to the natives were so introduced, the other members of the Council would point them out, and attempt to remove them.

972. You have described the publication of those laws as being restricted in practice to the English language; will you state whether, as a mere matter of fact, you find any difficulty among the natives, as you now know them to exist in Bengal, in obtaining translations of those laws, supposing it were politically desirableto publish them in the native language?

After the Acts are passed they are always translated into the native language by official persons, and published.

973. Do you find any difficulty in procuring competent trustworthy persons to translate the most complicated law which may pass into the Oriental languages, so as to extend the knowledge of it among the Oriental subjects of the Queen?

No, I think there is no difficulty; there is an official European translator; the laws are sent to him, and he translates them, or gets them translated: we have occasionally found the translation a little, perhaps, difficult, and sometimes not quite comprehensible; but that was more the case formerly than it is now; I think that they are translated only into Persian, but that is sufficient to enable the native community to understand them.

974. Into what language are they translated?

Persian, when I was in India. I do not know whether any alteration has taken place since I left India upon that subject; there was a great inclination to discontinue Persian altogether. Persian, ever since we came into the country, is the language in which business has been transacted; and the laws were accordingly translated into that language alone; I cannot say how it is now; eight years have elapsed since I left India; they are going on improving, and as Persian is no longer the language of business, it may have been directed that the translation should be made into the colloquial languages.

975. Although the only official translation of the Acts may be into Persian, are the natives practically instructed in the import of the Acts by translations made (though not officially) into the other languages and dialects of the country?

Yes, generally speaking there is no difficulty in those who are affected by the laws obtaining an accurate knowledge of them when they are passed; what I would say is this, that people in general there are quite as well acquainted with the laws passed in India as the people here are with the laws of this country.

976. Is the Persian language generally understood by the educated natives?

Yes, throughout the whole of the Bengal and Agra divisions.

977. You said that Persian is declining as the language of business; what other language has taken its place?

Bengalee is the language in which the proceedings of the Courts are all conducted in Bengal, and in the upper provinces the Hindee.

978. Have the natives any public mode of discussing those laws which are proposed?

No, they have not.

979. They do not call meetings for the purpose?

No; they may do so in private, but there are no public meetings.

980. Is Hindee the same as Hindostanee?

Yes, I think nearly the same as Hindostanee. The language in which business is transacted now up the country is called Hindee, though I believe it is Hindostanee in reality.

981. As

981. As there is no official translation of any new law into the vernacular language, may there not, in consequence of the present arrangements, practically be two translations materially different into that language, one from the original English, the other from the Persian translation of the English?

Yes; but I suppose that if there is any translation into the Hindostanee, it would be taken from the original, and not from the Persian.

982. Now, with respect to Bengal, are you of opinion that it would be desirable to separate the Government of Bengal altogether from the Governor-general?

Yes, I think it would.

983. Will you state your reasons for that opinion?

As matters at present stand, the Governor-general is, immediately on his arrival, loaded with all the duties of the Bengal Government, in addition to all the duties of the Government of India. I hold it to be impossible for any man to discharge those duties, especially one who has had no experience in the country, and who comes from England without having had any local knowledge, or any opportunities of ascertaining the actual state of things. Besides, there is a great deal in the proceedings of the Bengal Government which comes up in the native language, which he cannot possibly be able to understand. I think, therefore, that, at all events, the Governor-general, in the management of the Government of Bengal, should be assisted by his Council in the same way as they assist him in conducting the general affairs of India. It would be much better, in my opinion, if, as by the former Charter, the Governor-general in Council controlled the Government of Bengal, in the same way as he controls the affairs of the country at large. But it would be much better if a Deputy Governor, as in the case of Agra, were to be appointed. I saw in an Indian paper the other day, what I believe to be perfectly correct, that during the last sixteen years there had been no less than ten Governors of Bengal.

984. All acting without a Council?

All acting without a Council. There is also another inconvenience: the Governor of Bengal being at the same time Governor-general, he never can visit the interior of the province. It is a much better arrangement at Agra, where the Deputy Governor, being a separate officer, is able to visit once a year the different stations which are under his authority, and it would be an equal advantage to Bengal if the same thing were to take place in that quarter.

985. When the Governor-general arrives in India with that want of knowledge which you have represented, and which is undoubtedly generally the case, and finds that he has to transact all the business of Governor of Bengal, as well as that of Governor-general in Council, is it not natural, inasmuch as the great political and military questions are those treated of by the Governor-general in Council, that he should pay more attention to them, and that he should pass over more lightly the business in detail of the Government of Bengal, and leave it very much in the hands of the secretary?

Undoubtedly.

986. So that it practically leads very much to leaving the Government in the hands of the secretary?

It is so, in point of fact, and is unavoidable. Either the Governor-general must govern the province of Bengal alone, or he must appoint one of the Council to do it. Now, even for a Councillor who has been brought up in the country, and who, consequently, is better acquainted with the nature of all the questions that come before him, it is very difficult, if he does his duty, considers the papers, and records his sentiments as he should do, to transact all the business of the Government of Bengal, and to attend in like manner to all that comes before him in the Government of India. Therefore it strikes me that it would be a great advantage if an officer, as in the case of Agra, were appointed as the Governor of Bengal, who was not a member of the Council.

987. In point of fact, the Deputy Governor of Bengal, being a member of the Council, has the same papers brought to him which the Governor-general has?

Almost. He labours under the same inconveniences and difficulties which the Governor-general would labour under, except that he has the advantage of personal knowledge of the general business of India.

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988. You would prefer that the Governor of Bengal should be selected from the service by the Governor-general in Council, rather than that he should be appointed in the way in which the Governors of Madras and Bombay are, namely, by the Court of Directors, with the consent of the Board of Control?

Yes: the Governors of Madras and Bombay have each a Council, and their appointment takes place from home; but the Governor of Agra is named by the Governor-general; and I think the Governor of Bengal should be also so named. There is certainly a closer connexion between the Government of India and the Governments of Agra and Bengal, than there is between the former and the Governments of Bombay and Madras. Bengal and Agra are more immediate dependencies of the Supreme Government, and therefore require to be more in a state of subordination, perhaps, than the other two. For instance, the chief appointments in the Sudder Courts and Boards must have the sanction of the Government of India. Hitherto the patronage of the Agra and Bengal Governments have depended upon the will of the Governor-general of India. It has been the practice with some Governors-general to make a division of the patronage; but in my own case Lord Ellenborough confided it entirely to me, with the sole direction to appoint the best man I could find to each vacancy. I reported to him generally what was done, and in that way the government was carried on. But it would be much better to have it set at rest by some legislative provision.

989. Should you prefer that the Governor of Bengal should act solely, or with a Council; and if he should have a Council, should he have a separate Council, or should his Council be the Council of India?

If there is a separate Governor of Bengal, and that Governor is taken from the ranks of the service, and is subordinate, as the Governor of Agra at present is, to the Governor-general in Council, I should say that a Council was not necessary. But if the appointment of the Governor of Bengal were to take place, as it does at Madras and Bombay, from England, I should say that the duties could not properly be performed, unless he had the advice and assistance of a Council.

990. In that case would you give him an independent Council of his own, or would you only give him the Council of India?

Then the Council of India would be Council to two authorities, and would have in one capacity to sit in appeal from orders passed in conformity with their advice in the other.

991. You would give him a Council of his own in that case?

I would give him a Council of his own in that case; but I think that it would be a bad arrangement. The best arrangement would be to assimilate the Government of Bengal as nearly as possible to the present Government of Agra.

992. Then, when the business of Bengal is before the Governor-general in Council for consideration and orders, would you recommend that the Governor of Bengal should come into the Council for the purpose of stating his reasons for what he has done or proposed, or would you leave that duty to his secretary?

I think it would be convenient if the Governor of Bengal were to attend at the Council on the days when the Bengal business came before them: I would not make him a member of the Council for the affairs of India at large; but it would be convenient, both to the Governor of Bengal and to the Governor-general in Council, if, when the business of Bengal was coming before the Council, he should attend and sit as an extraordinary member.

993. Would you not add the Deputy Governor of Bengal to the Council for the sole purpose of legislation?

It might be so, but I have never considered it to be necessary. With the addition of two members, one from Madras and one from Bombay, perhaps the Council would altogether be too numerous if the Governor of Bengal were also there for legislative purposes.

994. Will you state what are the special duties of the Governor of Bengal; he has no political and no military duties?

No; with the exception of military and political duties, he has the whole internal administration of the country in all its departments.

995. Do the Sudder Boards, and the Board of Salt and Opium, and the Customs Department, all report to the Governor of Bengal?

Yes.

Yes. I understand that lately the Board of Customs, Salt and Opium, has been united with the Sudder Board of Revenue; so that there is only one Board and one chief native Court of Judicature.

996. What portion of the business of the Government of Bengal comes necessarily before the Governor-general in Council for approval?

All appeals from the decisions of the Governor of Bengal come before the Governor-general in Council, and also every question relative to expenditure. In short, all points relating to the civil administration are subject to their superintendence and control in all cases whatsoever.

997. To what limit can the Governor of Bengal of his own authority incur any expenditure?

None whatever.

998. Every matter relating to any expenditure must necessarily go before the Governor-general in Council?

He cannot expend any sum, however trifling, without the sanction of the Supreme Government.

999. The Marine Department is under the Government of Bengal, is not it?

It is, in fact, under the Governor of Bengal; but the Governor-general in Council also issues orders to it: he ought to issue them through the Governor of Bengal; but as that would be attended with delay, he sometimes does it direct.

1000. Is Tenasserim under the Government of Bengal?

Yes.

1001. And Singapore?

Yes.

1002. Would there not be very great advantage by separating the Governor of Bengal from the Governor-general, and enabling the Governor of Bengal to make tours, and to see the country with his own eyes?

Yes, I have already so stated.

1003. Is there any instance of a Governor of Bengal ever having travelled through the country since the time of Mr. Hastings?

Not that I know of. Lord William Bentinck once, as Governor-general, went up to Rungpore, which is the only instance I recollect of a Governor-general having visited any station in Bengal.

1004. Unless that provision of the law which existed previously to the year 1834, which gave certain powers to the Governor-general when absent from his Council, be still in force, is it not the fact that the Governor-general, when travelling as Governor of Bengal through the provinces of Bengal, would be denuded of all power whatever, except legislative authority?

He would be denuded, I believe, of all power, unless, previously to his departure, he determined in Council what powers he should exercise. The fact is, that, as the Government at present exists, it is impracticable for the Governor-general, as Governor of Bengal, to make any tours of inspection whatever without great public inconvenience.

1005. When the Governor-general separates himself from his Council for the performance of special duties, how is he assisted in discharging them?

Sometimes the Governor-general goes away to reside for a time at Simla, but he generally goes for some special purpose. Lord Ellenborough went up for the purpose of withdrawing the armies from Affghanistan: then, again, he went up afterwards to superintend the operations at Gwalior.

1006. Does not it happen sometimes that he is absent for a considerable period from the seat of Government?

Yes.

1007. During that period how is he assisted in discharging the ordinary functions of Government?

He has secretaries for the purpose; and before he goes, it is determined in Council what portions of the duties of the Governor-general he shall perform; and the rest are performed by the President in the Council.

 1008. Are

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1008. Are those secretaries high officers, representing efficiently the several departments of the State?
Yes, they are high officers, but they are not Councillors.

1009. They have no authority to advise the Governor-general?
None whatever.

1010. When Lord Ellenborough went up the country, was it not the fact that he took no secretary for any department, except the Foreign Department, and one member of the Military Board?
That is true; but any of the secretaries of the Governor-general can act in all departments.

1011. You are aware that the Secretary for the Home Department remains with the President of the Council?
Yes.

1012. Then when the Governor-general is absent from his Council, he goes with such secretaries as he may select for the interim, and they act as secretaries for all departments?
Yes.

1013. But he takes with him a staff of high officers, who may be competent to advise with him upon all questions that may arise?
Yes, but they have no responsibility.

1014. Does not it happen, from the frequent absences of the Governor-general from Calcutta, that some of the most important political measures are taken by the Governor-general without the advice of the Council?
Yes.

1015. The Committee were informed yesterday, that when Lord Ellenborough and Lord Hardinge returned to Calcutta from the Upper Provinces, the gentlemen who had been, during their absence, appointed to the Government of Bengal, continued after their return, and notwithstanding the actual presence of the Governor-general at Calcutta to discharge those duties which they had to discharge in his absence?
I was so appointed.

1016. Then does not it amount to this, that the improvement you propose would be the permanent establishment of that system?
Yes.

1017. No inconvenience was found to result from it on those occasions?
As far as I was personally concerned, I should say none: the only difference was, that Lord Ellenborough abstained from exercising the duties of Governor of Bengal, and allowed me to continue to do it; and on Lord Hardinge's arrival, Lord Hardinge did me the honour also of continuing that appointment, notwithstanding his own presence.

1018. But one drawback to that system is, that the post is not occupied as long as it would be if it were in the hands of a distinct officer: you occupied it only as a member of the Council, discharging those duties for the time incidentally?
Yes.

1019. If the post were established as a distinct post, it would be allowed to be occupied for five or six years probably?
Yes, just as in the case of Agra.

1020. At present, it being occupied only incidentally, as part of the duties of a member of the Council of India, the occupation of the post is very limited and very transient?
Yes.

1021. In fact, you acted as Deputy Governor of Bengal for about two years and a half?
Yes, about that time altogether.

1022. Leaving the Council at that period, you could not by any power of the Government have been continued longer in that office?
No.

1023. If the Governor-general goes up the country, taking with him the whole of the Council, and so carrying with him the whole Government, in that case there can be no Governor of Bengal, because, according to the Act, he cannot appoint any person but a member of the Council to be Governor of Bengal?

No, there could not.

1024. When the Governor-general goes up the country, how is the range of transactions limited which he may assume for himself to carry on as distinct from the Council?

Before he goes up the country, he in Council settles the duties which he has to perform, and those being settled, there is no difficulty.

1025. Is it in his discretion to limit his own power?

With the sanction of the Council; it is decided by the Governor-general in Council, and that having been determined in Council, no alteration can take place.

1026. Would the Governor-general have the power of overruling his Council, if he thought fit?

There can be no overruling of the Council on any matter contrary to the agreement which has taken place.

1027. No limiting of the power?

No, because it is a legislative act; if the Governor-general has agreed to send down copies of all that he does to the Council, it is very possible that there may be a difference of opinion between the Council and himself upon some of those acts, which must be then referred home.

1028. Previously to his departure, he settles with his Council what functions he shall leave in their hands, and what he shall discharge himself?

Yes.

1029. Is that an act in which he can overrule his Council, or is it a legislative act in which he must have their consent?

He must have their consent.

1030. In point of fact, however important the Governor-general might think it that he should go up the country, if the Council refused to agree to that act, he has no power of overruling them?

Except on his own responsibility. The Governor-general has power to overrule his Council, perhaps not in legislative matters; but if he chooses to take upon himself the responsibility, there is no power of resistance.

1031. In the event of the appointment of a separate Governor for Bengal, do you think it would be expedient to remove the seat of Government from Calcutta to any other part of India?

No; I think Calcutta is the best position that could be selected for the Supreme Government. I do not mean to say that circumstances might not arise to require the temporary residence of the Governor-general in Council elsewhere; but, as a permanent place of residence, I should say Calcutta is the best.

1032. In point of fact, have not the Governors-general of late years been for a longer period absent from Calcutta than resident at Calcutta?

They have; but, except in special cases, I do not think it has been productive of advantage.

1033. Is it not highly desirable that the seat of Government in India, which depends upon England, an insular State, should be placed at a port whence the communication with England can always be maintained with security?

I should think so.

1034. Is it not extremely advantageous that the seat of Government should be in a position in which it is perfectly unattackable both by sea and by land?

Certainly.

1035. Would not those considerations apply to Bombay with equal truth as with regard to Calcutta?

Those considerations might apply with equal force to Bombay; but then Bombay, in other respects, is not so conveniently situated for the seat of Government as Calcutta.

1036. But, supposing that the matters to be concluded by the two considerations which have been put to you in the preceding question, would not Bombay, in those two respects, possess equal advantages with Calcutta?

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It would, no doubt; but I still think it would be a very great mistake if Bombay were selected as the position of the Supreme Government.

1037. Is not Bombay much more assailable, by sea at least, than Calcutta?
Yes, it is; it is an open bay.

1038. Do you not conceive that the inconvenience arising from the Governor-general in Council being fixed at one end of India, namely, at Calcutta, will be materially lessened when a line of railway is completed through the heart of the country?
Certainly.

1039. And that, therefore, ultimately there will not be much inconvenience from his residence being permanently fixed at Calcutta?
I think there will be no inconvenience. It must also be recollected that Calcutta is a very short distance from Burmah, with which we are now at war, and that the Calcutta Government has the Tenasserim provinces, Penang and Singapore, with which there is considerable trade, under its superintendence.

1040. Have not the British possessions in India extended more in the neighbourhood of Bombay than in the neighbourhood of Calcutta: are not our acquisitions in Scinde and in Affghanistan nearer to Bombay than Calcutta?
Yes; but I do not think, when the railways are completed, that there will be more difficulty in communicating with the Punjaub, and with our possessions in that direction from Calcutta, than from Bombay.

1041. The communication with Scinde is, in fact, partly by sea from Bombay?
Yes.

1042. Do you consider that there will be great advantage in carrying on the Government of India at Calcutta whenever the railways are finished, in consequence of telegraphic communications, by means of which, orders may be sent up to Agra or Delhi?
No doubt the telegraphic communications would create great facility for transmitting orders.

1043. Have they not been found to be very successful already from Calcutta to the Port?
Yes, I understand so.

1044. Supposing the public officers were not already at Calcutta, and supposing Calcutta had not been originally the seat of Government in India, should you still think that, in point of locality, it is the most favourable position for the residence of the Governor-general of India?
Yes, I should still think so. Altogether, there are more facilities of communicating with all parts of India from Calcutta than from any other place. It should also be remembered, that Calcutta is a large commercial place; it is close upon the Valley of the Ganges, which is the richest part of all India, and there is a considerable trade carried on between Calcutta and the upper provinces, which is not the case, I believe, either from Madras or Bombay. It has always been my opinion that we could not have a better situation for the Government of India than Calcutta: it is at the mouth of two immense rivers, the Burrampooter and the Ganges. I do not see any advantage that would be derived from the removal of the seat of Government from Calcutta to any other part of India.

1045. An opinion has been given that it might be advisable to add to the Council of India a member from Madras, and a member from Bombay; do you not think that, when railways and electric telegraphs are established, the necessity or expediency of such a change would be much diminished?
No doubt the establishment of railways and telegraphic communication will increase the facilities of communication; but what led me to think that there ought to be some representative of the Madras and Bombay Presidencies in the Supreme Government, is, that all the members of the Government at present are confined to those who have had experience alone in Bengal, with the exception of the legislative member; there is the military member, who has for three or four successive appointments been a Bengal officer; and the other two members of the Council are Bengal officers, and have not the smallest knowledge of the local circumstances of either Bombay or Madras: considering, therefore, what an immense extent

extent of country is embraced by those two Governments, I think it would be more satisfactory to the Governments themselves, or at least to the people who reside under them, to have a representative from each in the Supreme Government, who could explain their local peculiarities; and it certainly would be very satisfactory to the Government itself, and all the members of it, to have some one from those Presidencies with whom they could consult in cases of difficulty.

1046. Practically speaking, in your experience, has any great mistake been made by the Government of India, in consequence of there being no such member of Council from Madras or from Bombay?

I cannot say that I recollect any great mistake that has been made, though I think there has been experienced both difficulty and dissatisfaction: it would have been much more satisfactory to the inhabitants of Madras and Bombay if they had a representative in the Supreme Council, and there has often been difficulty on questions of a local nature to decide what ought to be done; when the Law Commission was in force, there was a member in it from Madras and Bombay, and we used occasionally to consult them, by which means has been obviated any inconvenience up to the period of my stay in India.

1047. With respect to the minor Presidencies, have not they complained, as far as you are aware, rather of the interference and supervision of the Supreme Government, than of the want of communication with it?

No; it would prevent any undue interference if there were a person at hand to remonstrate against it. Such a person would have been particularly useful in a case which came under my own observation. We had to reform the whole judicial administration of Madras, and to assimilate it as much as possible to our own: it was a long and difficult operation, requiring a great deal of local knowledge as to the extent of the jurisdiction of the Courts, and other circumstances, and it would have been a great advantage to have had a member from Madras to assist us in these particulars. Again, there was an Act to be prepared for the establishment of a bank at Bombay; in regard to which, there was considerable difference of opinion between the subscribers and ourselves as to the course proper to be pursued, and it would have obviated much discontent to have had an intelligent member from Bombay personally to communicate with on the subject.

1048. In the two cases which you have just mentioned, would not it have been very easy to have sent in the one case to Madras, and in the other case to Bombay, for some person who could have given the information wanted by the Supreme Government?

No doubt we could have done so; but it would have been attended with delay and other inconvenience.

1049. In the exercise of the functions necessarily devolving upon the Supreme Government, has not much time frequently been lost from want of the constant presence of some persons connected with those two Presidencies?

So it strikes me.

1050. Is there not an advantage in intercommunication between persons from different parts of the Empire in discussing questions affecting all?

I think so.

1051. If the best men that Bombay and Madras could afford were sent to Calcutta, and were appointed members of the Council of the Supreme Government of India, would not those officers in that situation, in a great measure, supersede the authority and functions of the Governments of Bombay and Madras?

They would no more supersede the authority of the Governments of Bombay and Madras than the present Councillors of India supersede the local Governments they represent.

1052. You are proposing that officers of high repute should be sent from the other Presidencies, and should be appointed members of the Council of India: do not you conceive that such officers would, in a great measure, supersede the authority of the Governors of Bombay and Madras?

The authority of the Governors of Agra and of Bengal is not superseded by the members of Council at present taken from those divisions.

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1053. Would you propose to place Bombay and Madras upon the same footing as Agra and Bengal?

Not exactly; because I would not have a Deputy Governor at either; I would propose that a member of Council should be withdrawn from Bombay and from Madras, in order to meet, in some measure, the expense with which this addition to the Council of India would be attended; but I never intended that the Governments of Bombay and Madras should be conducted solely by Deputy Governors.

1054. You do not think it expedient that any alteration should take place in the footing upon which those Governments are placed?

No, for these reasons: in the first place, there is a separate army established both at Bombay and at Madras; then there has always been a Government at each, consisting of four Members; and I cannot contemplate that the Government at home would give up the appointment of the Governors at Madras and Bombay, and allow a civil servant to be appointed Deputy Governor at either: under those circumstances, I think that, at present, to change those Governments into Deputy Governments, subordinate to the Supreme Government, would not answer.

1055. You do not think that the presence of gentlemen from Bombay or Madras in the Council would derogate from the influence and authority of the Governors of Madras and Bombay?

I should think not.

1056. The presence in the Council of persons connected with the local concerns of Madras and Bombay would not necessarily bring under the supervision of the Supreme Council subjects not within their province?

Certainly not; it would merely facilitate decisions, by affording the information required.

1057. Such members of Council, taken from the Madras and Bombay Presidencies, would be heard with respect and consideration by the Council of India?

Certainly.

1058. But they would not be permitted to overrule the decisions of the Council of India, and altogether to decide every question connected with those respective Presidencies?

Certainly not.

1059. You have spoken of the possibility of communicating, under the present system, with Madras and with Bombay, and obtaining information; even supposing that information to be acquired, must it not evidently be, to a certain extent, irresponsible information, as compared with the information that would be given personally in the Council of India by the members of Council from Madras and Bombay?

Any information from the Government of Bombay or Madras officially communicated must, I should think, have full responsibility attached to it; if the Governments of Bombay or Madras were to state what was not actually the case, they would be responsible for so doing.

1060. You were understood to state, in answer to a previous question, that even at the present time there may be communications held with the Presidencies of Madras and Bombay, in order to give local information to the Council of India; but would that species of communication to which you refer, have the same active and patent responsibility that would be connected with the presence of members of Council connected with those Presidencies in the Council of India?

I should think there would be equal responsibility; but I do not think the information required could be obtained so well or so fully by written as by personal communication. If there were no advantage in personal communication and discussion, there would be no use in a Council.

1061. By those members from Madras and Bombay sharing in the deliberations of the Council, and knowing what their opinions are, there would, in your judgment, be a more active representation given to the interests of the two Presidencies than can be attained at the present time?

I think there would.

1062. Have

1062. Have you any doubt that more active representation would lead to greater contentment in those two Presidencies, rather than excite any apprehension of undue meddling in their affairs?

That is my impression; but I do not know what may be the actual state of the case. I have heard the absence of representation complained of, and it has struck me, in consequence, that it would be the safer and better way to have representatives: at all events, if it does not succeed, it may be discontinued; it would be merely an experiment.

1063. But the more ostensible and patent the representation, do you conceive that the greater would be the security for due attention to local interests?

Yes: I think that the Governor-general in Council, having members from Madras and Bombay, would be better capable of deciding questions of a local nature than he is now.

1064. Do not you think that the local Councils of Madras and Bombay would be better qualified to decide upon local questions than the Supreme Council, even if aided by the presence of a Councillor from Madras and from Bombay?

I am speaking of the Governor-general in Council with the power he at present exercises. If he should not exercise any authority either in Madras or in Bombay, he would not have occasion, of course, for any adviser.

1065. Supposing there were in the Council of India two members taken from the services of Madras and Bombay; would not the same objection be felt in Bengal, though, of course, in a less degree, to an arrangement under which persons who were necessarily, but imperfectly, acquainted with the system of revenue management and other local peculiarities in Bengal would be entrusted with a share in the administration of Bengal?

I conclude that the Madras and Bombay Councillors would merely take an active part in matters connected with Madras or Bombay.

1066. So that you would have the Bengal Councillors interfere in the affairs of the other two Presidencies; but you would restrict the Councillors of Bombay and Madras to their own affairs?

No, I would not; all I would do would be to give to Madras and Bombay the same advantages that Bengal has at present; that is my sole object. At present the whole of the Council consists entirely of Bengal officers, without any from Madras or Bombay; and it appears to me that it would be better if they had one from each of the other Presidencies, instead of the whole being appointed from one.

1067. That is to say, if you still retain the present arrangement, by which all matters are required to be submitted to the Supreme Government?

Yes; I do not mean to say that there should be only the same number in the Council; there should be an increase, so as to admit of one being appointed from Madras, and one from Bombay.

1068. There is no rule that a member of the Indian Council shall always be a Bengal officer?

None whatever: practically there is no rule; but there is not a sufficient number to admit of appointments from Madras and Bombay; it would require an increase in the number.

1069. Do you not think that the addition of two Councillors, one from Bombay, the other from Madras, to the Government of India might, and most probably would, add to the embarrassment and difficulty of the Governor-general himself. Is it not the fact that occasionally the Governor-general has some little difficulty with the members of his Council; and therefore, if you added to their number two Councillors, would not that add to the embarrassment of the Governor-general personally?

I do not think so. I do not know any difficulties that the Governor-general has experienced from his Council. I should think, on the contrary, that it would give facility to the Governor-general to have gentlemen who could advise him in the details of matters connected with Madras and Bombay. All I can say is, that on the occasions to which I have referred, it would have been a great convenience to have had that assistance.

1070. Is it not of great importance that the services of Madras and Bombay should be kept in a position of independence; and would not that object be

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considerably promoted by having the members of those services admitted, like those of the Bengal services, to a share of the general administration of India in the way which you propose?

I think so.

1071. Is it not important that all parts of India should be governed by persons who look to the highest offices?

Yes.

1072. Is it not the fact that there is an impression at Madras and Bombay that the Supreme Council deals with the interests of Agra and Bengal, and with matters affecting Agra and Bengal, with a greater degree of liberality and consideration than with matters relating to the other subordinate Presidencies?

I do not know what the impression may be at Madras or Bombay upon that subject, but there is no such impression at Calcutta.

1073. Is it not the fact that a much larger proportion of the revenue of the upper provinces is spent upon works and improvements in the north-western provinces than in the Bombay or Madras Presidencies?

There are one or two expensive works going on at present; but I do not think there is any intention of expending more in the one than in the other. I know that at one time it was thought that a great deal more was spent in the parts of the country where the revenue was smaller than in parts where it was larger; for instance, at Bombay there were very expensive works in roads and other things carried on, which occasioned some complaint in Bengal.

1074. Are you aware that it is the fact that eight per cent. of the net revenue is expended upon public works in north-western provinces, and only one per cent. in Bombay, and a half per cent. in Madras?

No, I am not aware of it.

1075. Is it not natural to suppose that, in relation to newly-acquired provinces, there must be a greater demand for the expenditure of public money for such purposes than there can be in an old territory which has been long settled and inhabited?

It must be recollected that the revenues of Bengal are much larger, and can afford, perhaps, to expend more in proportion. I am not aware what the proportions may be; but I believe that the rule of giving the Government of India the superintendence of all the expenses was owing to an undue portion of expense being incurred at the subordinate Presidencies.

1076. Assuming the proportions of expenditure which have been stated to you in the former question to be correct, does it not furnish an additional motive for having representatives from Madras and Bombay to oversee and to control the expenditure of the revenue?

It strikes me to be so.

1077. Would not the observation of travellers through the provinces of Agra and Bengal be rather, "How very little has been done by the Government of India for the improvement of the country," than "How much has been expended upon it"?

It would.

1078. What, in point of fact, has been done, with the exception of the recent construction of a few roads and bridges, and a few canals in the upper provinces?

It is very true that there has been very little in proportion to the time and to the resources of the Government, and that is the case in Bengal particularly. There has been more spent up the country: there is a canal being executed now, which will be a most valuable improvement; but it is remarked by everybody how very little has been done in Bengal in the matter of internal improvements.

1079. Have not many great works, in the way of tanks and canals, which were formed by the native princes in India, been allowed to fall into decay through neglect?

Yes, a great many; but there is every facility afforded to the natives of India to build tanks, and to expend money for public purposes. There are published every year, periodically, the sums of money which are so spent by private parties.

1080. In point of fact, have the improvements which have been made, whatever may

may have been their original cost, been largely productive of advantage both to the Government and to the people?

I believe so.

1081. Especially in Rajpootana?

I believe everywhere; but it has been a matter of regret universally that we have spent so little.

1082. Were not measures taken more than 20 years ago for the purpose of assimilating the pay and allowances of the three armies?

I believe the pay of the three armies has been assimilated in some measure; but whether to as great an extent as possible, I am not aware.

1083. Is it not the fact that it has never been the object of the Government to assimilate altogether the emoluments of the officers in the three Presidencies, respectively occupying similar situations, and that the civil salaries of Bombay and Madras are inferior, upon the whole, to those in Bengal?

They are, in some instances, but not so greatly as might be supposed. The emoluments of some offices are the same, and some perhaps differ a little; I believe the uncovenanted servants are better paid at Madras.

1084. Is the cost of living less at Madras and Bombay than it is in Bengal?

I should think it was more; but I merely give that as my impression.

1085. Inasmuch as 90,000,000 of people appear to be governed by the Governor-general in Council in the two divisions of Agra and Bengal, does it *à priori* appear necessary to have two separate Governments for Madras and Bombay, with all the establishments of two separate staffs, for a population not exceeding one-third of the population under the Government of the Governor-general in Council?

I think it would be difficult now to discontinue the two Governments of Madras and Bombay.

1086. Does not the question depend upon local circumstances, such as the facility or difficulty of communication, and the distances, as well as upon the amount of population?

It depends, of course, upon a variety of circumstances.

1087. Originally the two Governments of Bombay and Madras were created by the accidental possession of certain factories, and they have gradually risen into the position of Presidencies, with large populations?

Yes; but they have risen to that condition, I think, which renders necessary the continuance of the two Governments.

1088. Has any diminution taken place in the Madras army since the time when it carried on the wars in the Deccan?

I believe there has. I have not correct information upon military subjects; but I understand that both cavalry and infantry have been reduced to skeleton regiments.

1089. In the event of the death of the Governor-general, upon whom does the Government devolve?

Upon the senior member of Council.

1090. The Governor-general might happen to be up the country at the moment, exercising the powers of Governor-general in Council?

Yes.

1091. For the period that would elapse before his death could be known and provided for, there would, in fact, be no Government?

No Supreme Government, except the President in Council.

1092. But none exercising the authority of the Governor in Council?

No.

1093. Whatever may be the ability, experience and respectability of the gentlemen selected for the office of members of the Council, might it not happen that the person who was the senior member of Council might not exactly be the person most fit to exercise the powers of Governor-general in Council under circumstances of difficulty?

It might so happen.

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1094. Yet until recourse could be had to England, as the law now stands, he would exercise those powers?

Certainly.

1095. Do you think that, upon the whole, the arrangement by which the Government devolves by necessity, in the event of the death of the Governor-general, upon the senior member of Council, is the most convenient?

It appears to me that there is no alternative, unless it is meant that some one else should be appointed to succeed as Governor-general who is not in the Council.

1096. Or in the Council, not being the senior?

Or in the Council, not being the senior.

1097. Might not there occasionally be great public convenience in nominating a provisional successor to the Governor-general, without making it known that a successor had been nominated until the time arrived for his acting?

There might be some convenience in it; but, generally speaking, perhaps it is better left as it is now, particularly as we have speedy communication with Europe; there would be less inconvenience than formerly in letting the arrangement stand as it is.

1098. Has the inconvenience, which has been put to you hypothetically, occurred in the history of India?

No, I do not think it has.

1099. Was not the result of the death of Lord Cornwallis, succeeded as he was, an entire change in the policy that was pursued by the Government?

It was so; but I do not know that in that case anybody else in India could have been selected who would have been more suitable.

1100. But, in point of fact, it led to a reversal of the policy of the Government?

It did.

1101. Will you state what are the principal reasons which have induced you to come to the conclusion that it would not be desirable to alter the position of the Governors of Madras and Bombay, and to place them in the same position as the Governor of Agra, and the proposed Governor of Bengal?

I think I have already stated them; one reason is, that the Governments at Madras and Bombay have military establishments, which is not the case either at Agra or Bengal.

1102. What objection would there be to placing the military establishments of Bombay and Madras under the common management of the Government of Calcutta?

It is under the general control of the Government of Calcutta at present; but whether it would be proper to place the military establishment under a Deputy Governor without a Council, and without a military member of Council, is what I very much doubt.

1103. You have stated, as one objection to altering the position of the Governors of Bombay and Madras, that there were separate armies: what advantages do you think result from their being separate armies; do you see any objection to placing those armies under one direction and management for the whole of India?

I am not sure that there would be any objection to the whole being placed under the Commander-in-Chief of India, and under the Government of India; but that not being the case at present, I do not think, until that alteration takes place, it would be expedient to leave those Presidencies under the control merely of a single civil officer.

1104. But provided that those alterations took place, and that the army was under one direction and management, then your chief objections to the alteration of the position of the Governors of Bombay and Madras would be removed?

If the military authorities should say that there would be no necessity for any more immediate military control over those armies than that which resides in the Commander-in-Chief at Bengal, then I should no longer consider it an objection to the arrangement proposed of having only Deputy Governors at those Presidencies; but there are other circumstances: there is a Supreme Court in each of the Presidencies, and a state of things has grown up which, perhaps, is too much for the control of a Deputy Governor.

1105. Is

1105. Is there not a totally different system of revenue management from that which exists in Bengal?

Yes. If a member of the Madras service were to be Deputy Governor, that difficulty could be overcome; but I am not sure that there are members of the service qualified for that situation, and many other points require to be taken into consideration before I could say that there was no objection.

1106. Would not the selection of a Governor at Madras or Bombay from the civil services of those Presidencies respectively be much more restricted than the selection of a Lieutenant-governor at Agra from the larger civil service of Bengal?

I cannot state whether the civil services of Madras and Bombay are capable of affording persons who could exercise that control; I am not sufficiently acquainted with the character of the gentlemen of whom those services are composed.

1107. You think that the services of Bombay and Madras could not furnish competent persons to fill the office of Lieutenant-governor?

I cannot say that they could not; I only mean that I should like to know whether they could or not, before I give an opinion upon that subject.

1108. You are not a member of the Court of Directors?

No, I am not.

1109. Is it, in your opinion, desirable that persons possessing long experience in the Indian Government should be members of the Court?

I believe that the Court consider it desirable to have men who have had large experience in India to be members of the Court.

1110. What is your own opinion upon that subject?

My opinion is that it is desirable: I do not mean to say it is desirable that the Court should be composed solely of men who have had local experience in India, but it is desirable that some men who have had experience in India should be members.

1111. Is there anything in the mode of election that deters men from endeavouring to obtain that distinction?

Yes; six years of canvassing is a very great objection; it deterred me from the attempt, together with the other inconveniences attending it.

1112. Will you state what those inconveniences principally are?

They arise from being obliged to make personal application to a large constituency residing in all parts of Europe; and, also, it is an arduous undertaking for any man who has spent the best part of his life in Indian service, and possibly he might not succeed. Altogether the difficulties appeared to me to be too great for a man at my time of life to undertake.

1113. Have you any suggestion to make by which the mode of election could be improved?

I have no experience in the matter, and, therefore, I can only speak doubtfully upon the subject; but I think that the difficulties of the canvass have been very much increased by allowing votes by proxy. I know, however, so little about the matter, never having been placed in that situation, that I am not competent to give an opinion.

1114. Upon the whole, do you think that men who have been long in the service in India, are prevented practically from attempting to get into the direction by those difficulties and inconveniences to which you have referred?

I can only speak from my own experience, and from what I have heard from others; they certainly deterred me, and I believe they have deterred others.

1115. But there is a larger proportion of the Court of Directors consisting of persons who have passed a considerable time in India than there used to be?

Yes; there are a great many men who have been in India, and have been in high situations, and have had great experience, who are members of the Court.

1116. What are the inconveniences to which you refer as connected with the proxy system?

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Every proprietor being capable of voting, either by proxy or in person, the canvass necessarily extends to every one, wherever he may be, who has a vote.

1117. Is it, then, only in consequence of the enlargement of the constituency, and the increase in the number of voters, that you consider the proxy system to be inconvenient?

No, not merely so; but every body being able to vote either in person or by proxy, there are a greater number of individuals to be solicited than there otherwise would be, for instance, ladies. There are very few ladies who, I suppose, would attend to vote in person, but they can easily send a proxy. Candidates also, I hear, are not unfrequently exposed to much incivility and annoyance in the prosecution of their canvass.

1118. Inasmuch as a small proportion of the persons forming the present constituency of the East India Company have resided in India, and thereby acquired a knowledge of the qualities, abilities and services of the gentlemen who have served in India, would it not, with a view to the selection of persons of that description for the Court of Directors, be advisable to add, if it could be done, a considerable number of voters who, from residence in India, should necessarily have that practical knowledge?

Yes, that might be of advantage; but it is difficult to foresee how it would work.

1119. Would not a man of high service in India have a much better chance of being elected at once a member of the Court of Directors if a large proportion of the constituency consisted of persons who, having been resident in India, were acquainted with his services?

Yes, I think he would.

1120. Would not that great increase in the number of the body of voters be such as to make that personal canvass actually impossible, which at present is not impossible, but so irksome as to deter many gentlemen from engaging in it?

It probably would.

1121. Do you think it would be desirable to permit the Company's servants still in their employment to have votes?

No: I think the period of residence should be such as to preclude those who are at home on leave of absence, and still in the service of the Company, from voting.

1122. In short, they should only be entitled to vote when they have ceased to hold office under the Company?

I think so; that is to say, that the term required to enable them to vote should be beyond the period of furlough.

1123. Would not one consequence be, that canvassing would go on of those persons previously to their coming away, who would have votes when they arrived in England?

I dare say it would.

1124. Do not you think that there would be practically inconvenience, and some degree of impropriety, in that canvassing for their votes to which persons still in employment in India would be liable?

Any answer on my part to that question would be a mere matter of conjecture. I have no means of knowing what would be the effect of such a measure.

1125. If a vote was reckoned valuable, of course it might give rise to certain indiscretions and improprieties in order to obtain it?

No doubt it might.

1126. You have used the terms "covenanted" and "uncovenanted" servants; will you have the goodness to explain to the Committee the meaning of the distinction?

The covenanted servants are those who are appointed to India by the Court of Directors from home; uncovenanted servants are servants appointed by the Government of India to perform duties subordinate to the covenanted servants.

1127. Then

1127. Then may the Committee understand that, speaking generally, the covenanted servants are those who fill the more responsible and the more important offices, and that the uncovenanted servants are those who fill the less important offices?
Yes.

1128. But is it not the case that some of the uncovenanted servants do hold places of greater trust and greater importance than the lower class of covenanted servants?
Certainly, much greater.

1129. But in those cases is not the career of promotion and of honourable ambition open even to those subordinate covenanted servants to an extent to which it is not open to uncovenanted servants?
Certainly.

1130. What was the origin of this distinction, and what was the meaning of the "covenant"?
The meaning of the covenant is, that individuals who are appointed from home to the civil service enter into an engagement with the India Company to serve for a certain period of years.

1131. Do they enter into pecuniary responsibility?
I forget now what the terms of the particular engagements of the covenant were: it is an old form, quite inapplicable to the present state of things. The covenanted service has the superintendence of the internal administration of the country, and succeeds to the places of those who retire or become disqualified, from age or infirmity, for further service. The uncovenanted servants are those, whether of European, mixed or native origin, who are appointed by the Government to discharge all the subordinate duties under the covenanted service. In fact, the uncovenanted service has been so much extended, that at this moment almost the whole of the judicial administration in the lower courts is in their hands.

1132. Is there any definite distinction laid down by any law, or by any rule, with regard to the offices to which uncovenanted servants may be eligible?
Yes; rules are laid down for that purpose in all departments. They are most extensively employed in the judicial, where they dispose of almost all civil suits in the First Instance. The covenanted service now only take cognizance of cases in appeal; most other duties are carried into effect by uncovenanted servants, and it is done extremely well.

1133. Whilst you were in India, you had an opportunity of observing how the duties of the uncovenanted service have been performed by the natives of India?
Yes, as much, perhaps, as almost any other person.

1134. There are judicial functions exercised by those uncovenanted servants in the Tribunals of First Instance?
Yes.

1135. Practically speaking, has the mode in which those duties have been performed given satisfaction in India?
Very great satisfaction.

1136. Has the result been such as to impress upon your mind, and, in your judgment, to impress upon the minds generally of the intelligent Europeans residing in India, speaking as a whole, a favourite opinion of the trustworthiness and ability of the individuals so employed?
Yes; formerly the uncovenanted judicial servants were very ill paid, and were removable at pleasure; they had no security for the continuance of their appointments; and, of course, under such a system it was not in very high esteem; but this has been altered; men are appointed after due examination of their qualifications, and they cannot now be removed from their situations without the sanction of the highest Courts, and even in some cases of the Government itself; and pensions are allowed to them when they retire. Every inducement has been held out to them to continue upright and honest, and not to avail themselves of their opportunities to do wrong, and the consequence, I think, is, that they have become very valuable, and, I may add, trustworthy servants; in fact they have great

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advantages over the covenanted service, because they understand the natives better; they are able better to judge of the value of native testimony; they know all the peculiarities of different castes; they mix in society with each other, and, in fact, are more competent to come to a right conclusion than the covenanted servants, who have not always those advantages.

1137. Your observation with regard to the superior advantages of the uncovenanted servants in some respects applies to the natives?
Yes.

1138. Have not the arrears in the Courts been very much reduced since the employment of natives in the Tribunals of First Instance?
I believe they have.

1139. Under the existing state of the law in civil matters are not Europeans, as well as Asiatics, brought before those tribunals as suitors?
They may become suitors.

1140. But an appeal lies from those Tribunals of First Instance?
An appeal lies to the European Courts; some of the appeals from the Courts of First Instance lie to the superior native Courts; from the Courts of the Moonsiffs the appeals lie to the Courts of the Sudder Amins, which is a superior class of native court; then in cases of a certain amount appeals lie from the superior native functionaries to the district judge, and appeals from him lie to the Sudder Dewanny Adawlut.

1141. Are you able to state whether those appeals are very numerous, and whether the results of such appeals tend to confirm the confidence which you have described in the native judges, or to diminish that confidence?
The appeals used to be very numerous.

1142. Are they increasing or diminishing?
There is a great disposition among the natives to appeal; there is a very great love of litigation among them all; I speak more of the opinion of Europeans, at this moment, than the opinion of the native community, because that is not so easily attainable; some of the uncovenanted servants give satisfaction, and others do not; but I think the approbation is general of the mode in which justice is administered to a great extent; considering how very few we are, comparatively speaking, with the population of the country, I think it is generally felt that we do as much as can reasonably be expected; there are, no doubt, great defects; but I should say that the surprise is that we have been able to do so much, not that we have not done more.

1143. Is there not sometimes an impression felt among the intelligent Europeans that an appeal from one of those constituted native Courts to the European Court, to which the appeal can be taken, is not taking it to a tribunal that will be an improvement upon that which has already pronounced judgment?
There may be instances of that sort.

1144. Have you reason to believe in the integrity with which justice is administered in those native Courts?
Generally speaking, I have.

1145. Have you reason to think that they are sensible to the influence of money as bribes?
I think much less than they were formerly, because it is now more their interest to keep their situations than to expose themselves to the liability of detection: I do not mean to say that their moral condition is very greatly improved; but I think we have made it more their interest not to avail themselves of opportunities, as they did formerly, and to retain their situations by the honest and upright discharge of their public duty.

1146. Are you of opinion, that, in consequence of entrusting the natives with the performance of those responsible functions, and paying them generally an adequate remuneration, the moral character of the people has been improved, and that, upon the whole, you may rely upon the fidelity with which justice is administered in the Courts presided over by them?
Yes, I think so; we have derived great advantage from the native uncovenanted service;

service; in fact it would be impossible to administer the affairs of the country without them.

1147. If there were not that power of appeal to a European superior Court, would you have perfect confidence in the decision of the native judge?

Perhaps the best way I can answer that question is to say, that when I first went to Benares there was a native administrator of justice there, called Ibraham Khan, in whose decisions the greatest confidence was placed by the native community.

1148. He was a Mahomedan?

Yes; the greater portion of those native judicial functionaries are Mahomedans; I do not think the Hindoos make so good judges as the Mahomedans; the Hindoos are very excellent in the way of keeping accounts, and collecting revenue, and such matters; but for judicial administration I should say the Mahomedans are much better.

1149. Was Ibraham Khan under European supervision?

I think he was not; I recollect that the natives had a very high opinion of his decisions, which is not the case with the decisions of all the European functionaries.

1150. Do those natives who occupy the higher situations speak English?

No; at least they did not when I was employed in their superintendence.

1151. They have had no English education?

Few of them had been educated in our English schools.

1152. Have persons of mixed blood been also raised to any extent to those situations in the administration of justice?

Not many.

1153. Is that in consequence of their incompetency?

Not so much, perhaps, on account of their incompetency; but they are not respected either by the natives or by the Europeans, generally speaking. There are some individuals among them who have risen to eminence, but I do not think they are a class who stand high in general estimation. I believe their numbers are decreasing.

1154. Do not they occupy to a great extent subordinate situations under the secretaries in the offices of Government?

Yes; about Calcutta there are a great number of them who have qualified themselves as writers and copyists, but I do not think they can be much depended upon.

1155. What is meant by half-caste?

Mixed blood, European and native; sometimes they are called Eurasians or Anglo-Indians; the common name is half-caste.

1156. You have said that the half-caste people are not generally respected; is that on account of their personal character, or on account of their descent?

On account of their extraction, and none of them have been found to be very eminent; they have seldom risen, except in one or two cases, to much distinction; they are not looked upon with respect either by the Europeans or natives.

1157. In point of personal character, are they also inferior?

Some of them have good characters, and some have not; generally speaking, they have not; but there are always exceptions.

1158. Do the native population look down upon them?

Yes.

1159. What is the condition of the families of those natives, Mussulmans and Hindoos, who occupy those stations in the judicial department; are they generally what we should consider gentlemen, men of landed property?

In some cases they are men of respectability, particularly the Mahomedans.

1160. But more commonly what are they?

More commonly the Mahomedans are men of respectable education.

1161. Of landed property?

Generally they have not much landed property. On the breaking up of the

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Mahomedan Empire there were a great number of people reduced to poverty: they are generally persons of education and respectability.

1162. As they do not speak English, where have they acquired the information which qualifies them for those situations?

The Mahomedans have had some education; they have acquired it at their own institutions.

1163. You stated that the half-caste are decreasing in India; to what do you attribute that fact?

To the great increase of European society.

1164. Do you not think that the officers of the army and in the civil service marry more frequently than they used to do with English women?

That is what I mean; I mean that more English women go to India than used to go, and consequently there is much less inducement to take native wives.

1165. You conceive that the morals of the English portion of the population have in that respect improved of late years?

Very much indeed.

1166. Is the observance of the Sabbath by the English part of the community in India as great as it is in any other colony?

I think so.

1167. Are the uncovenanted Europeans in the service on the increase?

I think the uncovenanted service generally is on the increase. There is no distinct class of European uncovenanted servants. When a man presents himself, whether a European, or a native possessing the requisite qualifications for office, he may be appointed.

1168. If a man went out to India, and qualified himself, by acquiring the native languages, and was in other respects qualified by education, would he have a fair chance of obtaining an uncovenanted situation under the Government?

Yes; there are many sons of officers who are very glad to get uncovenanted appointments.

1169. Such a person would be eligible to any office?

To any subordinate office; he would not be eligible for an office held by a covenanted servant.

1170. Is that restriction by law, or only by custom?

The restriction, I fancy, is all by custom, not by law.

1171. Would he be eligible, strictly speaking, by law to any office?

Not unless he comes out with a covenanted appointment from the Court of Directors.

1172. Do you know any instances in which uncovenanted European servants have risen to posts of eminence?

No; there have been instances of persons in the uncovenanted service rising to high situations, but none to any eminence. There is no such thing as an uncovenanted servant becoming a secretary of Government, or a member of Council, or a member of the Board of Revenue, or a member of the Sudder Courts.

1173. Or a resident at any of the native Courts?

No.

1174. Was there not an uncovenanted servant in the Mint, for instance?

There was one; but he was an exception.

1175. What are the highest posts to which they are appointed?

The principal Sudder Amins, I forget what they receive in point of salary, but something very handsome; I should say 600 or 800 rupees a month.

1176. Is there not a class of offices to which the uncovenanted servants are by law ineligible?

I do not know that there is any law which regulates the succession of an uncovenanted servant; I believe that it is an appointment which rests entirely with the local Government. There are laws that authorize Courts to be super-

intended

intended by native officers, and there have been uncovenanted Europeans appointed to such situations; then again in the police there have been appointments to which Europeans, as well as natives, and even the half-caste, might be nominated; but it is all under the superintendence of the local Governments.

1177. Has not the superintendence of the cotton plantations been confided to uncovenanted servants?

It has, to persons sent out from Europe as American planters: there was one appointed to Dacca.

1178. But the original appointment from which the selection is made for promotion is founded upon the qualification of a covenanted servant?

Certainly.

1179. Do not the uncovenanted Europeans complain that they are not allowed furlough, like the covenanted servants; and that they are not allowed upon leaving their situations to return to them, but that they can only go away by vacating the situations which they hold altogether?

I believe there is some complaint in that respect, that the uncovenanted servants are not entitled to furlough.

1180. Have they any pensions?

There are rules, I understand, which extend to them certain advantages: what those advantages are I cannot take upon myself to say; but I know instances of uncovenanted servants being allowed to come home, and also to receive pensions on their retirement. For instance, the superintendent of steam navigation left India with a pension, and he was an uncovenanted servant.

1181. Does not an uncovenanted servant, if he leaves the uncovenanted service in India, and takes office under the Crown, altogether vacate his situation, and become unable to return to it?

So would anybody; even in the covenanted service it would be the same. No person can leave the service in India with the privilege of returning to it without the permission of the Court of Directors.

1182. Was the origin of the covenant altogether connected with the ancient position of the East India Company as a commercial body?

Yes, it was, I believe. Men were sent out as writers under covenants by which they engaged to serve the Company for five years.

1183. That is now applicable to all classes of officers who derive their appointments from England?

Yes, it was applicable, I believe, to all classes, at all events to the civil service.

1184. In your judgment, taking into account that, by usage, if not by law, the natives of India are altogether excluded from the covenanted service, is it expedient to maintain in its present condition the distinction between covenanted and uncovenanted. Consider, as an example, the case of the medical and surgical professions in India; are they not now covenanted servants?

I think "the covenanted service" is considered in common parlance as applicable solely to the civil service. I am not quite sure whether the military service, in all its branches, is covenanted.

1185. The question refers to the medical service; can any one but a covenanted servant be appointed to a surgeoncy in India?

I am not familiar with the way in which they are appointed; I think the medical servants are covenanted, but I am not sure.

1186. Are there appointments in India now which, being appointments to covenanted situations, are therefore removed from the possible possession of an Asiatic, but which, in your judgment, might advantageously be extended to Asiatics, so far as their eligibility goes?

I think that it would be better that it should remain on the present footing; the Government of India are the best judges of the qualifications of uncovenanted servants.

1187. The question does not refer to the choice on the part of the Government of India. The course proposed would rather go to extend the choice than

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than to limit it. The question is this, do you conceive that the exclusion of the natives of India, by reason of the distinction between the covenanted and the uncovenanted service, is expedient to be preserved to the present extent and degree?

Yes, I think it is; the proper object of the uncovenanted service is to act in subordination to the covenanted. I would leave in the hands of the home authorities the power of appointing those officers who are to exercise supervision in India; and I would commit to the uncovenanted service, as they are at present committed, all the details. To explain what I mean, there is a medical college at Calcutta, which I hope will furnish a sufficient body of medical men in time to supply the wants of India; and those young men have exhibited such attainments, that many people have thought it would be advisable to have them sent out as surgeons on the establishment. I have always opposed that idea, for this reason, that the object of educating medical men in India is for the purpose of acting in subordination to the medical men educated at home, who are sent out by the Court of Directors; whereas, if the hope is held out to them of being placed upon the covenanted establishment, they would not perform the subordinate duties with the same satisfaction.

1188. Do you think that they would perform the subordinate duties with less satisfaction if they considered that by eminence and by high attainments they would become in time eligible for higher functions?

It is evidently impossible to appoint from England, with English salaries, sufficient men to supply India with a medical establishment; and if the hope were held out to those young men of rising to that situation, they would all be looking to obtain it. Again, the higher branches of knowledge and education are supposed to rest with Europeans, and the native medical men are required to serve, under their direction, in the same manner as the uncovenanted civil service in India acts in subordination to the civil servants who are sent out from home.

1189. Is it not practically the fact that the highest possible eminence in skill and ability has been shown by some of those young native medical and surgical students?

I cannot say the highest possible eminence; but very considerable skill and ability has been evinced on their part.

1190. When Lord William Bentinck undertook that establishment first, in the year 1829, was it not considered that with respect to surgery the prejudices of the Hindoo and other Oriental races might make it exceedingly difficult to prosecute those studies; and was it not at first contemplated that the anatomy of animals only was as much as they could be induced to undertake?

I believe that was the original idea; but I know that all that prejudice has been done away, and they are turning out excellent anatomists; but whether it would be expedient or advisable to destroy their utility as a subordinate race of medical practitioners for such a country as India, by giving them the hope and expectation of still higher promotion, I very much doubt.

1191. Are not they now excluded from any appointment whatever coming within the class of covenanted servants?

Yes; but there is such a desire among the natives of rank for practitioners educated in European principles, that the young students, it is understood, are employed by native families in Calcutta while actually at the institution. I know, from my own experience, that men, after leaving the medical college, have refused appointments under the Government for the purpose of private practice.

1192. The question did not refer to private, but to public employment. Are not those young men whose eminent qualifications you have described practically excluded from any medical appointment coming within the class of a covenanted servant?

Yes.

1193. Covenanted appointments being now European, and uncovenanted appointments being with the Government of India, do you see any inconvenience in this particular department which is given as an example in the Government of India, having the door open to them to appoint those well-qualified natives to offices which are now filled by covenanted servants?

The Government, as at present constituted, could not appoint one of those men, except

except in very peculiar cases of emergency. Some native medical men have been appointed in cases of necessity to the charge of civil stations, which is the position of a covenanted medical officer; but there is this difficulty, that the European society do not like to be attended by native practitioners.

1194. Are they not exposed to that prejudice also among their own class?
Yes, there are prejudices of that sort, no doubt, still among them.

1195. Those prejudices, such as they may be, have not impeded the progress of those young men in the studies to which they devote themselves?
Not in the least; on the contrary, notwithstanding these prejudices, they are very much sought after by the native community.

1196. You were understood to state, that within your knowledge the employment of natives in the offices to which they are eligible has increased of late years?
Yes, in the uncovenanted service.

1197. Generally speaking, has that been productive of good or of evil, in your judgment?
In my judgment it has been productive of good. I am a great advocate for the extension of the uncovenanted service.

1198. You think that had better be done by an extension of the uncovenanted service than by the destruction of the distinction which now exists between covenanted and uncovenanted?
I think so.

1199. Is there any situation to which you would wish to appoint an uncovenanted native which you are excluded from doing by any law or regulation in existence?
I have known some natives who, I think, might have been promoted to the upper class of the judicial establishment; but I think the great difficulty of the Government of India at present is in finding men qualified for situations, and not in finding situations to which they can be appointed.

1200. Do you think that there are any sound political objections to the employment of natives in the highest offices of the State in India; that is to say, appointing them originally as writers, and letting them rise with Europeans to the highest offices in India?
I do not know whether you would call it a political objection; but I suppose it is understood here that the Europeans mix very little with the natives; consequently the natives so appointed would be exposed to a great deal of personal humiliation; but otherwise, on other grounds, I cannot say that I am prepared yet to admit them to the highest situations in India. I think they require to be kept in a certain degree of subordination; they are very much given to think themselves qualified for any situation, and most of the men who have been educated in the colleges fancy themselves capable of much more than they really are.

1201. Would you be disposed to place as much trust in the integrity of native servants employed as public servants as you would in Europeans?
No.

1202. Do you know whether it is the fact, that although a young native of the age of 18 to 25 sometimes greatly distinguishes himself, and shows considerable talent up to that age, yet when he is promoted and employed after that period it has been observed that he generally degenerates both in energies and in capacity?
I have heard it so stated; but I cannot say that I have had any experience of it within my own observation.

1203. Do not you consider it, on political grounds, expedient to maintain at present on the part of the natives a general impression of the superiority of Europeans?
I think so.

1204. In keeping up the distinction which you think should still be maintained, is not the most convenient and the least invidious way of doing it to found it upon the distinction between the appointments in the covenanted service, which

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are made at home, and the appointments in the uncovenanted service, which are left in the hands of the local Government?

I think so.

1205. Is not it extremely difficult to find Europeans qualified to hold the higher appointments in India?

Yes: there is a greater paucity of men of distinction in the services in India than there was, owing, I think, in a great measure, to the furloughs, and to retiring pensions, which draw people home.

1206. Would not that difficulty be infinitely increased if the number of Europeans sent to India were greatly decreased, by substituting natives for them in those inferior situations?

Certainly. I think the Europeans sent from England ought to be of the highest class in point of education, and fit for the exercise of superior duties; the natives should be employed in the subordinate situations, and as long as that rule is preserved, there would be no interference between one class and the other.

1207. If it is found difficult to find persons competent to fill the higher offices, when there are 800 Europeans actually in India holding civil situations, would not that difficulty be very greatly increased if there were but 400 Europeans in such situations?

Doubtless it would be; but what I mean to say is, that there are a great many duties still to be performed which cannot be executed by the number of Europeans which are sent from this country; there is a vast space yet to be filled up, and which cannot be filled up by means of covenanted servants. The object of the uncovenanted service is to procure persons to fill up that space at a less expense than would otherwise be incurred; and it is but fair to the natives in the country that they should have some share in the administration of it, and that it should not be monopolized entirely by strangers.

1208. Would there be any objection, except of a pecuniary nature, to increase the number of covenanted servants in India?

I think the principal objection is the expense; I am not aware of any other objection, provided well-qualified individuals are sent out; if unqualified persons are sent, they do more harm than good.

1209. If at the end of 10 years' service a civil servant can go home for three years, and if, when he has attained between 40 and 50 years of age, he can return with a pension of 1,000*l.* a year, is it not a natural result that there must be fewer persons in India competent to fill the higher situations than there were formerly, when men remained in India generally from the time they went to the time when they finally came away, and when they generally spent nearly their whole lives there?

Certainly.

1210. Do you think that the present system of furlough and pension is capable of any modification with justice to the individuals, and with a view to the furtherance of the public service?

I am not prepared to state what modifications would be advisable; I have always very much doubted whether granting furloughs and pensions has been beneficial to the efficiency of the service at large.

1211. Has it the tendency in many instances of withdrawing from the service of India persons who have acquired the maximum of experience, and who are still perfectly capable of rendering equal, if not greater services than they have already rendered?

Certainly it has.

1212. Does it not, on the other hand, tend to keep up the connexion between gentlemen employed in India and their native country?

Yes.

1213. May it not practically be extremely prudent to keep up that dependence of the servants of India upon the country from which they are sent?

No doubt it is a great comfort to individuals to be able to come home; but I think that it withdraws them prematurely from attachment to the service.

1214. Do not you conceive that the pension which is known to be due to a civil servant

servant after a certain period of service, is a guarantee for the credit and integrity of his conduct whilst he is a servant of the Company?

I do not think any such guarantee is required; what I mean is, that it has withdrawn from the service a great many very competent men, who would otherwise not have retired so soon as they did.

1215. Was it not one of Lord Cornwallis's reasons for considerably augmenting the salaries of the civil servants, that by so doing you would render them more honest than they had been at former periods?

Yes.

1216. Then would you not, for the same reason, infer that a civil servant, in the transaction of his duties, hoping to have a pension at the end of his service, would continue to conduct himself with more integrity than he perhaps might otherwise?

I do not think that any civil servant is governed by the apprehension of losing his pension; by the continuance of good conduct, he considers that he shall have his pension as a matter of course; I do not think the members of the civil service stand in need of that stimulus at all; those who do their duty from principle certainly do not require it; and what I feel is, that it induces them to think that they can go home sooner than they otherwise would; and in that respect it has been injurious to the service; but that is not the general opinion.

1217. Would you deem it advisable to prolong the period of service after which they can claim a pension?

I went out to India when there was no pension, and when there was no furlough, and I found there a number of very eminent men; men in those days went out with the intention of devoting themselves entirely to the service, and qualifying themselves for the Government of the country; now the general object is to save money enough to come home as soon as they can get the pension, and consequently the service does not contain so many eminent men as it used to do; there are few remaining such as Mr. Harington, Mr. Colebrooke, and Mr. Courtney Smith.

1218. Would you recommend a revision of the present furlough regulations?

Having authorized the furlough regulations and pensions, I do not see how they can be disallowed without giving great dissatisfaction.

1219. You are aware that the question of the revision of the furlough regulations has been a good deal agitated in India; do you think it would be advisable to alter them now?

No, I do not think it would; it would be very unpopular.

1220. You are stating what you consider to have been the practical consequences of the furlough regulations; but do you question the expediency of the system?

I do not question the expediency of it; but I say, that such appears to me to be the fact.

1221. In point of fact the furlough unsettles the man's mind, and sends him back dissatisfied with the service to which he returns?

I would rather say, that it sends him back not so satisfied with the service as he was before.

1222. Would not you in many cases lose the services of eminent men altogether if there was no such furlough during which they could recover their health?

They do not return on furlough for the purpose of recovering their health; they return for their private affairs.

1223. Does not the establishments of the overland route of communication induce gentlemen to take their furlough who might not otherwise have been disposed to do so, from the great facility of return?

I should think so.

1224. Are there not other circumstances besides the furlough and the pension which unsettle a man's mind, and render him anxious to return home at an earlier period than he formerly would have done. Does not the greater frequency of

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marriage among the officers and civil servants render them desirous of returning home, and rejoining their families in England?

I dare say there are many other motives.

1225. You have objected to the present system of pensions; but do not your objections rather refer to giving pensions at too early a period of life than to giving pensions at all. If the pension were given at a later period of life upon an enlarged scale, would not that retain eminent persons in India for as long a period as their health and strength would enable them to serve with advantage?

Probably it would.

1226. Has not the system of furlough this effect, that as there are more men going home than otherwise would go home, the changes of office amongst the persons that remain are infinitely more frequent than they otherwise would be?

They are more frequent than they otherwise would be; but there is no inconvenience in this, because another man is permanently appointed in his place; the great inconvenience attendant upon absence was, that a man used to go away to the Cape of Good Hope for two years, and come back again, and resume his appointment; and consequently the person who was acting in the office during that time, being there only for a short period, did not take the same interest in the office that he would have done if it had been his own. Other changes also were continually taking place; in that way there was great inconvenience: in fact there were changes at one time to such an extent, that the different offices were kept in a state of inefficiency for considerable periods.

1227. Was not an endeavour made at that period to diminish, as far as possible, the number of acting appointments, from the great injury they did to the public service?

Yes, and they were diminished, to a great extent.

1228. Do you consider that any inconvenience arises in the Government of India by reason of the limited term which, by usage, and not by law, is assigned to the high functionaries, the Governor-general, and the Governors of the Presidencies, and the members of Council?

I do not think so; the practice that has subsisted is, that the Governor-general has always been allowed to go on when it has been desirable; and I think that five years in the Council is as much as a man ought to hold with reference to the claims of the other members.

1229. The question refers to the interests of the parties to be governed, not to any possible question of succession in the way of promotion; do you conceive, for instance, with relation to the period of service in the Council, that that limitation has no tendency to deprive India of the services of able and experienced men, who could otherwise with advantage remain longer in the country?

I do not think it has; because, generally speaking, a man does not succeed to the Council till it is quite time to retire as soon as his period has expired. It is very objectionable, I think, to allow persons, after the expiration of their period in Council, to return to the service.

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned till Monday next, One o'clock.

Die Lunæ, 24° Maii 1852.

THE LORD PRIVY SEAL in the Chair.

Evidence on the East India Company's Charter.

F. Millett, Esq.

24th May 1852.

FREDERIC MILLETT, Esquire, is called in, and examined as follows:

1230. AT what time did you enter the service of the East India Company?
I went out to Bengal in the Company's civil service in 1816.

1231. As a writer?
Yes.

1232. How long were you in the judicial line?
I was in the judicial line till the year 1835.

1233. Will you state your progress in the different offices which you held from the time you went out?
First I was assistant to a magistrate, immediately I left the college of Fort William.

1234. How long did you continue in that situation?
A very short time; I was then appointed register of a Civil Court, an office since abolished.

1235. Did you continue in that office any length of time?
I was occasionally made acting magistrate, sometimes acting judge and magistrate, till I became a full judge.

1236. When did you become a full judge?
Up to the end of 1822 I was assistant to a magistrate and register, and occasionally acting magistrate, once acting judge and magistrate; then I returned to England, and was here in 1823 and 1824, and arrived at Calcutta again in October 1825.

1237. What situation did you then fill?
I was then appointed acting judge and magistrate.

1238. In what district did you act?
In Chittagong, in Bengal.

1239. How long did you continue as acting judge?
Six months, when I was made full magistrate, and so continued another six months, when I fell ill, and was some time absent on medical certificate; on my recovery, I was sent as judge to Allahabad, in the North-West Provinces.

1240. How long did you continue there?
About 10 months; I was then appointed judge and magistrate at Beerbhoom, in the Bengal Province; and latterly the office of magistrate was disconnected from that of judge; there I remained till the end of October 1833, when I was summoned to the Presidency on special business.

1241. During your progress through those different offices here, did you rise in the service; was it by seniority?
Not exactly by seniority; a good deal depended upon local circumstances,

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particularly with reference to officiating appointments; but generally speaking it was by seniority.

1242. Is that the usual course of rising in the Indian service?
I should say generally speaking it is; but exceptions are made, and of late years much more frequently than formerly.

1243. Upon what are those exceptions founded?
Upon qualifications.

1244. But the general rule is seniority?
Not nearly so much as it was; but that is the general rule.

1245. In 1833 you were summoned to the Bengal Presidency on special service; what was the special service?
To revise the civil regulations of the Bengal code; it was rendered necessary by the great changes which were made in the judicial system about that time. The powers of all the native judges were very greatly increased, the provincial Courts and the registerships were abolished, and all those changes had been made without sufficient regard to detail. I was summoned in order to revise the whole of the Regulations, and consolidate them, so that there should be a manual for the guidance of the civil judges in the service, both European and native.

1246. How far was that new system of Regulations to extend; was it for the Presidency of Bengal?
Yes, including the North-Western Provinces.

1247. The Presidency of Bengal alone?
That Presidency alone.

1248. Was that the first establishment of the Law Commission?
No, the Law Commission was not established then; the Law Commission was established in the beginning of 1835, and I was then appointed secretary of it.

1249. What were the peculiar duties of the Law Commission?
They are detailed in the last Act. Their duty was to inquire into all judicial and police establishments and forms of judicial procedure, and to ascertain and, as far as possible, to consolidate all law, written or unwritten, or customs having the force of law.

1250. Did it comprise the revision of that manual which you had just prepared?
Yes, undoubtedly; that manual was intended not to alter the law, but to consolidate it as it stood, with a few improvements.

1251. The Law Commission was to alter the law?
To ascertain, consolidate and amend the law wherever they thought necessary, or rather to report thereon to the Government of India.

1252. Did they revise and amend your manual of civil regulations, or did they leave them in the same state in which they were previously?
When Lord Auckland came out as Governor-general, he referred that question to the Law Commission, and the Law Commission expecting to be able, at an early period, to prepare a civil code of procedure of their own, thought it would be inexpedient to pass this so soon to be superseded.

1253. Has it been passed since?
No; in consequence of this opinion of the Law Commission it was dropped.

1254. What is the civil code now in force in India?
It is as it was before, with certain alterations, since made by Acts of the Supreme Government; but this particular code which I am speaking of was set aside altogether. It was very much lamented afterwards that it was not passed, because I prepared it under the superintendence of both the Sudder Courts, and therefore there was every guarantee for its being correct. The fact was, that the jurisdiction of the Courts had been so much changed, there were so many redundant regulations, and so many alterations of the law since 1793, when the code was first framed, that it was difficult even for the covenanted judges to understand them, and the native judges had been furnished only with translations of a few regulations more immediately applicable to their Courts; this code, short

short as it was, would have superseded about two of nine quarto volumes of the regulations, and, being translated, would have rendered the law equally accessible to the natives as to the European judges.

1255. When the Law Commission was formed, was their first proceeding to enter on the consideration of a civil code?
No: the Law Commission was placed under the orders of the Government of India, and what they ordered the Law Commission first of all to do was to make a criminal code.

1256. Then the Law Commission did make a criminal code?
Yes.

1257. Was that prior to making a civil code?
They have not yet made a civil code.

1258. Then the only suggestions which have been made for the alteration of the civil code up to this time were those contained in your manual; there has been no other civil code formed?
There has been no civil code formed, but only alterations made by the Government of India occasionally.

1259. Can you put in a copy of the manual which you prepared?
Yes, I can.

1260. You were appointed secretary to the Law Commission in 1835; was that the time when the Law Commission was first appointed?
It was.

1261. Will you have the goodness to state what were the proceedings that took place in the Law Commission?
I cannot detail everything; the first was the criminal code.

1262. Was Mr. Macaulay in India at the time?
He was.

1263. Who were the members of the Law Commission?
Mr. Macaulay, the fourth ordinary member of Council, was appointed President of the Commission: the other Commissioners were, Mr. Cameron, from England; Sir William Macnaughten, of the Bengal service; Mr. Macleod, of the Madras service; and Mr. (now Sir George) Anderson, of the Bombay service; but Sir William Macnaughten did not accept the appointment.

1264. All the others attended?
Yes.

1265. Was there a criminal code recommended by the Law Commission?
It was not recommended by the Law Commission; the Commissioners were ordered by the Government of India to begin upon it.

1266. Did the Commission proceed to form one?
Yes.

1267. Was a criminal code formed?
Yes.

1268. That has generally gone by the name of Mr. Macaulay's Code?
Yes, he was the principal framer of it.

1269. What are the steps which have been taken with reference to that code?
First, after being submitted to the Government of India, it was sent, by their order, to the different Presidencies to the judicial and other officers, and to the judges of the Supreme Courts, for their opinions upon it. This reference produced many returns; and after those returns had been all received, they were referred to the Law Commission, to report upon them; that report they sent in; the code was afterwards considered by the Government of India, and after being so considered, it was sent home to the Court of Directors, with the Government of India's observations upon it; the Court of Directors sent it out again, and the Government of India, after further considering it again, sent it home. The last I heard of it was, that it has now been sent out with orders to pass it, if the present fourth ordinary member of Council shall approve of it.

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1270. This began in the year 1835?
Yes; it was originally submitted by the Law Commission to the Government of India in May 1837, and after being revised and printed by the Commission, it was re-submitted in October 1837.

1271. Are you aware whether any material alterations were made in it?
I cannot say, because it was only begun to be reconsidered by the Legislative Council shortly before I left India.

1272. You left India in the end of 1848?
Yes.

1273. Then it had been 11 years in progress?
It was lying before the Government a long time: the voluminous comments received from the different Presidencies were allowed to go to sleep in the office of the Legislative Council five years, before they were referred to the Law Commissioners for examination and report.

1274. Did Mr. Macaulay remain in India till the time when the code was sent back to the Government of India?
No; Mr. Macaulay only remained in India about three years and a few months.

1275. Who was the fourth member of Council when it was sent back to the Government of India by the Law Commission?
It was sent back the end of June 1847, when Mr. Cameron was the fourth member; Mr. Bethune succeeded in April 1848, and the examinations of it had been commenced by the Legislative Council before I left, in the end of 1848; but I do not remember the date.

1276. What is the state of the criminal law of India at the present time?
At the present time the basis of the criminal law of India is the Mahomedan law; but it has been so modified by the regulations of Government, both as to its barbarous punishments, and as to its rules of evidence, that not very much remains of it; those modifications began in the year 1773. But there is very little definition of crimes in our criminal regulations. If, therefore, it is at any time necessary to ascertain whether a particular act, not provided for in the Regulations, constitutes an offence or not, recourse must be had to the Mahomedan law.

1277. And the proceedings of the Courts are regulated by the Mahomedan code?
The Mahomedan law has been so overridden by the changes made by the Regulations, that it is only in cases not provided for by them that it is referred to.

1278. The Hindoo law was superseded by the Mahomedan?
Yes.

1279. And the Mahomedan law has been in some degree changed and superseded by our regulations?
Yes, very greatly.

1280. By what instruments is the Mahomedan law administered?
In the Sessions Court there are Mahomedan law officers attending to expound that law.

1281. Do they give the law to the person before whom the trial takes place?
Yes; they give the law as applicable to the circumstances of the case.

1282. They are a species of assessors in the Indian Courts?
Yes; they have come to that; the opinion of the Mahomedan law officers may be set aside by the sessions judge on points expressly provided for in the Regulations, and entirely overridden by the Nizamut Adawlut, the Company's highest Criminal Court.

1283. Is not the law, as administered in the three Presidencies, very different in the actual administration of it?
Not very; Bombay has a code of criminal regulations of its own; it does not administer the Mahomedan law.

1284. In

1284. In each of the Presidencies has not the Government, by its Regulations, modified the general law?

Yes; and the modifications in Madras have followed, generally, those in Bengal.

1285. But you state that there is another system of law in Bombay?

Yes; Bombay has a criminal code of its own, framed in Mr. Elphinstone's time.

1286. That is a code formed exclusively upon the English model?

Yes.

1287. Who has the power of assigning the quantum and nature of punishment under the criminal law?

There are two modes of trial, either by the Mahomedan law officer, who is present as assessor; or, if the prisoner does not profess the Mahomedan faith, he may refuse to be tried by that officer, for which cases we have now a system of juries or assessors, or a punchayet.

1288. Who decides the nature and extent of the punishment?

The sessions judge is competent to adjudge punishments to a certain extent; and whenever in such cases he agrees with his law officer, he passes sentence; if he disagrees with his law officer, he is obliged to refer the case to the Sudder Court: when the case is tried with a jury, assessors, or a punchayet, the decision is vested exclusively in the judges, provided the sentence be one which is within his competency to pass.

1289. Who is the sessions judge?

The sessions judge is the first Criminal Court before whom, in cases beyond the competency of the magistrate, the offender is tried.

1290. Is he a native, or an Englishman?

An Englishman in the covenanted service; the civil judge is also a sessions judge.

1291. You stated that when there was a jury, the judge had the power of deciding upon the case?

Yes.

1292. Then what does the jury do?

The jury delivers its opinion, which the judge concurs in, or overrules.

1293. Does the sessions judge rank higher than a magistrate?

Yes, he is the next superior grade; appeals lie to him from the magistrate: the sessions judge has the power of punishment to the extent of nine years' imprisonment, and, in certain aggravated cases, of 16 years' imprisonment; all cases involving punishments above those limits are referred to the Sudder Court.

1294. What is the magistrate's power?

The magistrate has the power of punishment to the extent of three years or two years, in certain cases; but ordinarily his jurisdiction extends to six months, imprisonment, and a fine of 200 rupees, and if the fine be not paid, to a further imprisonment of six months.

1295. Is there any power of corporal punishment?

The power of corporal punishment was abolished in 1832, during Lord William Bentinck's administration; but it has since been revived in cases of theft of property not exceeding 50 rupees in value, and for juvenile offenders, and for certain crimes committed by convicts.

1296. Has not, on the whole, the severity of criminal punishments been much diminished of late; are there not fewer capital punishments now than there were 20 years ago, for example?

Perhaps there are; but we were never partial to capital punishments in India.

1297. Besides capital punishments, are there not fewer imprisonments for life than it was usual to award formerly?

Yes, a different system is now pursued; whenever a prisoner is ordered to be imprisoned for life, unless there are reasons to the contrary, he is always transported.

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1298. Are you aware that the Court of Directors have repeatedly, in the course of the last 10 years, sent orders to the Government of India to discontinue, as far as they could, practically, imprisonment for life?

Imprisonment for life is usually commuted to transportation; in fact, there is scarcely ever imprisonment for life.

1299. Practically now, then, there are not many sentences carried into effect of imprisonment for life?

No.

1300. Where are those prisoners transported to?

Generally to the Tenasserim Provinces and to the Straits Settlements, Penang and Singapore.

1301. Are they transported for life when transportation is substituted for imprisonment for life?

Yes; the Nizamut Adawlut has the power of commuting all sentences of imprisonment for life to transportation.

1302. When transportation is substituted for imprisonment, is it transportation for life or transportation for a period of years?

We never transport for a period of years.

1303. How are the convicts employed in the provinces to which they are transported?

They have grades of employment; at first they are kept strictly, being worked in gangs on the roads; afterwards, and by degrees, they have great indulgences allowed them.

1304. Is transportation for life reckoned a very severe punishment?

Very much so; the natives fear it even more than death; they have a very great objection to cross the salt water; there is something to them horrible in the idea, and they have an undefined dread of their destination.

1305. In what cases does the punishment of death still continue?

Only in cases of murder.

1306. Is it the case that men are very often sentenced to imprisonment for life, instead of being sentenced to death?

Very frequently; it depends a great deal upon the sufficiency of the evidence—I do not mean as to the fact of the prisoner's guilt, but as to the extent of it; the punishment of death is resorted to only in extreme cases.

1307. Then the substitution of transportation for imprisonment for life is not a commutation in the sense of being considered as more merciful to the prisoner, inasmuch as he would prefer imprisonment for life to transportation?

Transportation is resorted to partly in consideration of the prisoner's health, and because it produces more moral effect, and, at the same time, really more merciful to the individual.

1308. Is imprisonment to any extent used in the native States in India as a punishment for any offence?

I am not conversant with the proceedings in the native States, but I think they generally fine.

1309. What do they do if the fine is not paid?

I believe the culprits have various means of evasion; according to the Mahomedan law, the several punishments consist of mutilations.

1310. Is there not a great deal of personal punishment under the Mahomedan law?

Yes, mutilations of a hand or foot, or both.

1311. In point of fact, their criminal proceedings do not cost them a great deal of money?

I believe not.

1312. Will you state the constitution of the Superior Court, the Court of Appeal?

It is called the Nizamut Adawlut; the judges are generally the most experienced members of the civil service in the judicial department.

1313. In

1313. In the covenanted service?
Entirely covenanted.

1314. How is the Court constituted?
There are five judges of the Bengal Court, and three in the North-Western Provinces Court.

1315. Have they any native assessors with them?
No.

1316. They decide entirely upon their own judgment?
Yes, they never have the parties before them in criminal trials; they decide upon the record and report of the sessions judge, which latter is always in English, and, whenever they think it necessary, they refer to their own law officers.

1317. They do not proceed by hearing oral evidence?
Never; if the case requires more elucidation, they send it back to the sessions judge, with orders to take further evidence on particular points.

1318. And their decision is final?
It is.

1319. Has the Governor-general any power of mercy?
The Government have the power of pardoning and of mitigating the punishment, but they very seldom interfere.

1320. Will you explain what the Sudder Court is?
The Sudder Court is a term which is now enacted by law to apply to all the supreme native courts either at Calcutta, Agra, Madras or Bombay; that phraseology is for the purpose of facilitating legislation.

1321. Are the judges of the Superior Court also judges in civil cases, as well as criminal?
Yes, they are the judges of the last resort in India; there is nothing after that but an appeal to the Queen in Council.

1322. Do the sessions judges try all civil cases, as well as criminal?
They do; but their jurisdiction at this time is almost confined to appeals; they try very few original suits.

1323. Is that the case with the Sudder?
Entirely with the Sudder; they try appeals only.

1324. Do the magistrates try the majority of civil cases?
They do not try any; that is the duty of the native judicial officers; the magistrates are covenanted servants.

1325. Does an appeal lie to the civil judge from the native Courts?
I will mention the gradation of civil judges. Speaking only of the Bengal Presidency: the Moonsiff is the lowest grade; he tries suits to the amount of 300 rupees: there are two grades of Moonsiffs; 100 rupees per mensem is the usual allowance, and 150 is for the superior grade, to which they are promoted, according to merit. The next in rank is the Sudder Ameen, who tries suits from the amount of 300 rupees to 1,000 rupees, and his salary is 250 rupees a month. The highest native grade is the principal Sudder Ameen, who tries suits from 1,000 rupees and upwards to any amount; 400 is his usual allowance, and 600 is for the superior grade, which is the reward of merit. An appeal lies to the zillah judge from the decisions in original suits of the Moonsiffs and Sudder Ameens, also from the decisions of the principal Sudder Ameens up to 5,000 rupees; but the zillah judge has power to refer to the principal Sudder Ameens appeals from the Moonsiffs and Sudder Ameens, and of this power he makes large use: the zillah judge tries all original suits above 5,000 rupees, which he has not referred to his principal Sudder Ameen. There is an appeal from the zillah judge's decisions in original suits, and from the principal Sudder Ameens in cases exceeding 5,000 rupees, to the Sudder Court.

1326. Is an appeal an expensive process?
The higher the Court, the more expensive the stamp duties are.

1327. Are there practically many appeals from the original jurisdiction?

I can state the per-centage; there are about 13 per cent. in Bengal, and about 16 per cent. in the North-Western Provinces; that is of cases appealable from one Court to another.

1328. Are those cases open to appeal to this country afterwards?
That depends entirely upon the amount.

1329. Not upon the Court in which the suit originated?
The suit comes up to the Sudder Court in India first: if the amount litigated for is above 10,000 rupees, it may be appealed to England; 50,000 rupees used to be the limit.

1330. When was that alteration made?
Under the 21st of Geo. 3, c. 70, the limit was 50,000 rupees; and it was altered afterwards by an Order in Council under the 3d & 4th of Will. 4, c. 41, to 10,000 rupees.

1331. Was there not at one time a large arrear of appeals before the Privy Council?
Yes, there was.

1332. Those cases were taken up by the Court of Directors?
Yes; that was according to the last-mentioned Act, which provided that where parties failed to prosecute their suits, the Court of Directors should carry on their cases for them.

1333. Is that a law still in existence with respect to future suits, as well as with respect to past?
Yes.

1334. Was it not the fact that frequently those appeals were sent over to this country, and left untouched afterwards?
Yes.

1335. So that it was a postponement of justice, without ever bringing the matter to a decision?
Yes; the appeal was frequently made in order to put off the execution of the decree; but the Sudder Court in Calcutta have the option of taking security from the one party, and executing it, or from the other, and not executing it.

1336. But now have not the Court of Directors a special officer whose functions it is to look into these matters, and bring them before the judicial committee of the Privy Council?
I do not know.

1337. Upon whom does the expense of the appeal fall in that case, when it is taken up by the Court of Directors?
The expense is now very much reduced; for, in consequence of this last Act which I have mentioned, the Government of India passed Acts to the effect that no stamps should be required for the proceedings in these appeals, and that the parties prosecuting the appeals should defray the expense of preparing all necessary documents.

1338. Do the Court of Directors pay the costs of both sides, or only of the appellant?
I do not know how that may be in this country, but security is taken from the appellant in India for the costs in case of his losing the appeal.

1339. Supposing the appellant does not repay the costs, upon whom does the expense then fall?
It must, I presume, fall upon the Company when they cannot reimburse themselves out of the property of the appellant or his surety.

1340. What becomes of the defendant's costs?
I do not know how that may be.

1341. Do they take security for the costs on both sides?
I do not recollect at this minute.

1342. How many steps of appeal are there; through how many different Courts can a cause be carried by appeal, including the Privy Council in this country?

There

There is one regular appeal on the whole case, and there is a second appeal, which is a special appeal, merely upon points of law, practice and precedent, which special appeal lies to the Sudder Court, by whatsoever inferior Court the original case may have been decided.

1343. Will you trace a cause through all the appeals through which it can be carried up to the Privy Council?

From the Moonsiff's Court, and from the Sudder Ameen's Court there is a first appeal to the Judge's Court. From the principal Sudder Ameen's Court in original suits there is an appeal to the Judge's Court, except in suits above 5,000 rupees, in which case the appeal goes at once to the Sudder Court.

1344. If it is under 5,000 rupees, to what Court does it go?

To the Zillah Judge; decisions of the Zillah Judge in original suits are appealable to the Sudder Court.

1345. How many appeals can there be in one case?

There can only be one appeal, and a special appeal in India.

1346. And then it comes here?

Then it comes here, if the amount litigated extend to 10,000 rupees. The special appeal in India is now confined entirely to points of law and precedent, and it is made to the Sudder Court for the purpose of uniformity of justice; the Act on the subject is so worded, that the Sudder Court can try nothing but the point of law, whereas formerly they frequently went into the whole case again.

1347. In the Sudder Courts all the judges are equal?

They are.

1348. Do you think that a preferable system to having a chief justice?

I do not know that there would be any great advantage in having a chief justice. All appeals to the Sudder Court are now tried by three judges sitting together, and if those three judges think that a precedent ought to be altered, then all the five judges sit together to try it.

1349. Do not you think that there is a certain degree of advantage in giving to the chief justice the greater amount of authority which he practically possesses by reason of his dignity as chief judge of the Court?

It does not occur to me that any material advantage would be derived from that.

1350. Do you think it is convenient that the Court of Appeal should have no original jurisdiction, so as to keep its hand in in the trial of original causes?

Generally the judges of the Sudder Court have been judges of first jurisdiction; if original suits were tried by the Sudder Court, it could only be where the parties and witnesses resided in the neighbourhood; they could not come from remote districts up the country.

1351. Is there much disposition amongst the people to appeal against the original jurisdiction?

I think there is.

1352. Do you attribute that to a natural love of litigation, or to any well-founded dissatisfaction with the mode in which the law is administered?

I think they are very fond of carrying a suit to the utmost; but I can state the per-centage of decrees confirmed and reversed, which, perhaps, will best answer the question. Of the actual appeals in Bengal, there were 56 per cent. confirmed, and 44 reversed or modified; and in the North-Western Provinces there were 65 confirmed, and 35 modified or reversed.

1353. What is the position of the half-castes under the law?

Precisely the same as that of the natives.

1354. So that if a person of mixed blood had been educated at Eaton, and afterwards at Cambridge, and went out to India, he nevertheless would be treated as a native under the criminal law of the country, and be punished as such?

I think so, because the only exception is of British subjects born, or their descendants.

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1355. If he had been naturalized in England, would he still be treated as a native in India?

I think so; it is not very easy to explain to what extent the term "British subject" now applies, but I think it would not apply to a half-caste.

1356. How would you draw the distinction between a half-caste educated in England, and a British subject; how do the Courts ascertain the difference between them?

If they are born in India in wedlock, they are British subjects.

1357. What mode is there of ascertaining the distinction between the two in India?

If he, defendant, demurred to the jurisdiction of the Court, there would be an inquiry.

1358. Have many such cases come within your knowledge of a dispute as to whether a person who had been educated in England was a native or a British subject?

No; I only recollect one.

1359. What are the cases in which the European officers are required to put in writing the opinions that they give upon the cases that come before them?

All the judgments are written in English with their own hand by the Europeans, and the natives record the judgment in their vernacular language; there are translations made of it in English.

1360. Are those opinions criticised and investigated by any superior authority at Calcutta?

Not unless there is an appeal.

1361. When was that system adopted?

In 1843, by the 12th Act of that year.

1362. Has not the general effect of that been to render the judgments more careful than they used to be formerly?

I cannot practically speak to that, because I have not been in the judicial line since that Act was passed; but I am quite confident that it has; I think this rule was a very great improvement.

1363. Will you now have the goodness to state the mode in which the law is administered to European British subjects?

Since 1836 British subjects are subjected to the Civil Courts in India precisely the same as natives; formerly they were not so generally subject; Armenians, foreigners and Europeans, not British subjects, were always so subject as natives.

1364. In criminal proceedings, how does the case stand?

In criminal proceedings there has been nothing done in the matter; that is to say, British subjects committing any offence in the provinces must still be sent from the extreme points of the empire to the Supreme Courts at the different Presidencies; the only exception being that contained in a clause of the statute 53 Geo. 3, c. 155, by which a justice of the peace, or a magistrate in the country, has jurisdiction in cases where British subjects have oppressed the natives; but that does not apply as between British subject and British subject.

1365. Is not there a power, under one of the former Acts, still existing, of trying in England in the Court of Queen's Bench a person guilty of a misdemeanor in India?

I cannot speak positively to that; practically it is not done; the Company's servants are triable in England for misdemeanors committed in India.

1366. Will you have the goodness to state what is the form of trial of a British subject in a Criminal Court in India?

He can be tried only by the Queen's judges, in what are called the Supreme Courts in India.

1367. Is the trial by jury?

By jury, just as it is in this country.

1368. A jury

1368. A jury composed of what persons?
Persons of all kinds in the Presidency.

1369. All Europeans?
I think natives may be jurymen; I know they can be upon the grand jury.

1370. Is there any qualification for a juryman?
Yes, but I cannot say what; the English law applies to the case of jurymen.

1371. Are the forms those of the English law?
I believe so; the Supreme Courts administer only the English law; there are, however, three cases in which a British subject is now subjected to the Company's Courts in criminal matters; if a British subject is appointed Moonsiff, Sudder Ameen or principal Sudder Ameen, he is liable to be prosecuted in the Company's Courts for acts done in his official capacity; he is subject to punishment like others for contempt of Court, and may be bound over to keep the peace, and his penal recognizance enforced against him.

1372. Before the year 1836, what course of proceeding was there against a British officer who was in debt in the provinces; he would now be brought before the ordinary Civil Court?
Military officers might be sued before the Military Court of Requests up to a certain amount, 400 rupees, as they are now sued.

1373. Can you speak as to the practice before the formation of those Courts?
I cannot; the Mutiny Act before the last was passed in the fourth year of Geo. 4.

1374. Are the criminal cases before the native Courts carried on by a public prosecutor, or are they carried on in the name of the Court of Directors, or are they treated as cases of wrong between individuals?
Sometimes one and sometimes the other. With regard to cases tried by the magistrate, it is generally prosecuted by the party injured. When the case is made over to the sessions judge, it is sometimes the party injured, sometimes the Government: it is conducted by the magistrate, in point of fact, though he is not present himself before the sessions judge. There is in every zillah a Government pleader, and he appears; but he does little more than give in the petition of prosecution.

1375. After you had been secretary to the Law Commission, what was your next employment?
I was then made a member of the Law Commission, first acting, and afterwards confirmed; and that situation I held till I became a member of the Council in April 1844.

1376. Were you particularly employed in the examination of the rent-free tenures?
Yes; after I had finished the code of civil regulations, I was then put upon it.

1377. Was that before you were connected with the Commission?
Yes, immediately before; but it was whilst I was secretary of the Commission I was chiefly occupied with it.

1378. Will you state what was the nature of your duty?
The nature of my duty was to consolidate all the regulations on the subject. At that time investigations were going on into the validity or otherwise of those tenures; and the law being very uncertain in many points, I was ordered to reconsider the whole, revise, amend and consolidate it.

1379. Did you do so?
I did.

1380. Was that law put in force?
The law was never passed. After being examined, and, with some alterations, approved by the Legislative Council, it was sent to Lord Auckland; but in the prospect of the investigation being soon brought to a close, he did not think it expedient to pass a law on the subject; but many of its provisions were adopted in the proceedings.

 1381. Would

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1381. Would that proposed law have relaxed very much the original stringency of the law with respect to the resumption of the rent-free tenures?

To a certain extent it would; but there were many doubts about what the intentions of the original law were; and the only way in which I could ascertain it, was by instituting researches into the Government proceedings at the time of the permanent settlement. One doubtful point was, what tenures were to be considered hereditary; another, what grants were to be regarded as endowments of public institutions and temples, and so on. When the proceedings were brought to a close, I believe it was calculated that about three lacs of rupees had been added to the revenue, at an expense of about eight lacs; but the one was permanent, and the other was temporary.

1382. Was not the operation of the law producing a very strong and very unpleasant feeling in the country?

I think about Patna it did particularly; because there were many very large grants there, and there appeared to be injustice in revoking them after the holders had enjoyed them so many years. An investigation ought to have been made at the time of the permanent settlement, and the matter set at rest once and for all; but then it was the duty of the collector to bring the cases into the Civil Court, and the Civil Courts were so full of business, that the whole was neglected. It was resumed in 1819, and more particularly in 1828, when special officers were appointed for the purpose, both as prosecutors and as judges. Investigations went on in the North-Western Provinces simultaneously with the settlement.

1383. In consequence of the feeling excited, was not the law relaxed in its operation; were not provisions made for giving annuities, and affording some relief to persons deprived of their property?

Yes; settlements for the revenue were made with some at a favourable rate, and to others pensions were given. The Mahomedan Government itself used to grant those tenures, and resume them at pleasure. At the breaking up of the Mahomedan Government, many such grants were made, and very many by persons totally unauthorized to make them.

1384. The effect of the law was to charge rent for the future, but not, *ex post facto*, to charge arrears?

Yes, to charge rent for the future only.

1385. Was no length of possession considered as proving that there had been a valid grant in the first instance?

Yes; this was a rule from the beginning, that possession for a certain time should be taken to be a good title, whether there was a grant or no.

1386. What time was fixed for that purpose?

There were different periods, according to the dates at which the territories came into our possession. In Bengal and Behar it was 1765, the date of the grant of the dewanny; in Benares, 1775, the date of the cession; in more recently acquired territories, 12 years before the cession was assumed, as 1789 for the provinces ceded in 1801; and so on.

1387. Then the dates fixed were according to the time at which we became possessors of the country?

Yes.

1388. Therefore, in that case, any resumption must have been of the rent-free land which had been in the possession of persons for a shorter period than that?

Yes. The difficulty was not so much about the original grantee, as whether the grant should descend to his heirs. What I proposed was, that where there had been one or more successions before the above dates, the fact of such succession should be taken to establish the hereditary nature of the tenure.

1389. Was there not a more stringent law passed by Lord Auckland upon the subject?

No; he rather relaxed the old law, according to the provisions I had framed.

1390. That law, for the resumption of the rent-free tenures, was not a new law?

No;

No; it was an old law which ought to have been acted upon from the beginning, and that would have avoided the hardship.

1391. Was it not supposed that there was a mistake in granting the Zemindaries in Lord Cornwallis's time?
That involves the whole question of the permanent settlement; it was much disputed at the time whether the Zemindars were the proprietors, or whether they were not.

1392. Can you state, generally, what proportion of the rent is reserved to the Government?
No, I cannot. The perpetual settlement was made upon an average of years, without any measurements, or inquiry into details; therefore we have no criterion to judge by. But a statement was once drawn up in the Board of Revenue at Calcutta, of a number of estates belonging to minors which were under the management of the Government officers, and in these it appeared the Government share was one-half.

1393. What was the date of that?
I think it was about the end of 1840.

1394. When you say "half," do you mean that the money payable to the Government was one-half of the gross produce?
One-half of the rental. In the North-Western Provinces' settlements about 35 per cent. is allowed to the proprietor for profit and risk, and the rest is considered the share of the Government.

1395. Thirty-five per cent. of the gross produce?
Of the rental of the estate.

1396. What is the proportion which is reserved to the Ryot?
Never having been a revenue officer, I cannot answer that question. In many places the proprietors are themselves the cultivators; in others, part of the lands are in the hands of inferior tenants.

1397. You state, that 35 per cent. of the rental is allowed to the proprietor; but what proportion does the rental bear to the gross produce?
In the North-Western Provinces, generally speaking, the settlements are made with the heads of the proprietory brotherhood; 30 or 35 per cent. on the gross rental is allowed as profit and risk to the proprietors.

1398. The question is, what relation does that rental bear to the produce, or is it intended to mean the same thing?
No, not the same thing; but I was never in the Revenue Department, and cannot tell what proportion it bears.

1399. Could you form any calculation of the proportion of the lands in the Lower Provinces, which since our possession of the Dewanny have been sold for arrears of revenue?
I cannot tell that.

1400. Would it be possible to obtain any return of that?
I should think it ought to be ascertainable from the Revenue Department.

1401. Is it not a very large proportion?
Formerly, I believe, it was a very large proportion; but of late it is much less. An Act was passed in 1841 regarding the sale of lands for arrears of revenue, containing very peremptory provisions, on purpose to ensure punctuality of payment, and it certainly had the effect.

1402. After filling the situations you have mentioned, you became a member of the Council?
Yes.

1403. During the time you were in India was there a great increase in the number of natives employed in the Company's service?
Very great; it began in Lord William Bentinck's time, in 1831; and in the Judicial Department now the natives try nearly the whole of the original suits.

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1404. Are they employed more especially in the Judicial Department?
No: they are employed also in the Revenue Department.

1405. Has that been generally found a beneficial system?
I think so, decidedly.

1406. Has justice been administered more to the satisfaction of the natives?
It is rather difficult to answer that question; but the arrears of business have been very much brought up in consequence; the covenanted service were overwhelmed with the business. The administration of justice has been much more rapid than it used to be.

1407. Has it been also more satisfactory?
It is difficult to ascertain that.

1408. Is the same confidence placed in the decision of the native judges, as is placed in the decision of the European judges?
No, I should say not; but the work of the native judges is not, of course, equal. Some give great satisfaction; others are not so trustworthy.

1409. Does it not seem almost impossible that the same confidence should be reposed in the native judges, from the fact which you have stated, that nearly 50 per cent. of the decisions of the Inferior Courts are reversed upon appeal?
No; that is the proportion of appeals in which the decision is reversed, not the proportion of original decisions. I took these proportions from a work, which probably most of your Lordships have seen, Mr. Campbell's book on Modern India; he had access to later statements than I possess, extending only to 1848, when I left India. The latest statements can be obtained from the India House.

1410. Can you state the number of suits?
I can state the number decided by the Moonsiffs, by the Sudder Ameens, and by the principal Sudder Ameens.

1411. Can you not state the per-centage of the appeals to the original suits?
It was 13 per cent. in the Lower Provinces and 16 in the Upper: then of those cases actually appealed, there were 56 per cent. confirmed, and 44 modified or reversed in the Lower Provinces; 65 per cent. confirmed, and 35 per cent. modified or reversed in the Upper. I can give the number of suits disposed of by the different Courts in 1849. According to the statements in Mr. Campbell's book, the Moonsiffs disposed of in Bengal 86,676 suits, and in the North-West Provinces 54,007; the Sudder Ameens, 1,363 suits in Bengal, and 9,859 in the Upper Provinces: there is a great difference here, to be accounted for by the fact, that as it was proposed to abolish the office of Sudder Ameen, many officers of that grade were discontinued in Bengal: the principal Sudder Ameens disposed of 3,405 in the Lower, and 4,012 in the Upper Provinces.

1412. Previously to the employment of natives in the administration of justice, were not the arrears very considerable?
They were; they have been since that time gradually brought up: from the statements now sent up by the Courts in India, and which are to be found at the India House, it may be known what number of months or years the suits have on an average been pending.

1413. Then has not the effect of the employment of natives been, that whereas there was formerly great delay in the administration of justice, now there is much greater promptitude of decision in those Courts?
Certainly, there has been a great amelioration in that respect; but I think the duration of suits might be yet further reduced.

1414. Is not there reason to suppose that the speedy administration of justice in itself must give considerable satisfaction to the natives of India, and particularly to all persons who have recourse to those Courts?
Certainly.

1415. In addition to that, have you reason to suppose that the decisions of the native judges have in general given satisfaction to the persons who have resorted to those Courts?

That

That is my impression, certainly; on the whole, I think the change is a very great improvement.

1416. In many cases formerly had not the English judge to go by the advice of a native officer, who thus had the influence without the responsibility?
Not in civil suits; there were no assessors, or any aid of that kind.

1417. Were not the native officers consulted?
In some cases, no doubt, a great deal was left by the judge to his native officers.

1418. But the complaints were more of the delay than of the decision itself; and it is in the prevention of delay that the great improvement is felt?
Yes; but I have no doubt that some of the native judges are a great deal better than some of the European judges were formerly.

1419. In many cases was not justice formerly administered nominally by an European, but in fact by a native?
No; those cases were certainly the exceptions.

1420. Are the half-caste population much employed as uncovenanted servants?
Yes, they are.

1421. Are they equally respected by the natives?
There are few of them employed, in the Judicial and Revenue Department, except as clerks. I have here a statement, showing how all the East India population of Bengal are employed.

1422. From what is that statement derived?
It is taken from a paper which appeared in one of the Calcutta Reviews in 1849.

1423. Do not the half-caste form all the bands of the regiments?
I believe they do, in a great measure.

1424. Are they equally respected with the natives?
I do not think the natives do regard them with the same respect as Europeans.

1425. Do they esteem them equally with their own race?
It is difficult to speak to what a native thinks; but I do not think they do.

1426. In your opinion, would it be beneficial to employ the natives in the higher grades of the judicial administration in India?
They have now very great power; I think we have gone far enough for the present; we may do harm by going too fast; the native agency can only succeed at present by strict European superintendence and vigilant control.

1427. You think it absolutely necessary that there should be European superintendence over it?
Yes, certainly.

1428. If the number of European servants were very materially diminished, would there not be very great difficulty in selecting from that diminished class persons fit to exercise the power of superintendence?
I think there would; this want of proper superintendence has been much felt in the judicial line since the abolition of the office of Register; officers are now appointed judges of the Zillah Courts, *i. e.* Courts of Appeal, in the several districts, without having had any experience in the trial of original suits; I think that is a great evil.

1429. Have you had any opportunity of observing the degree of efficiency that there may have been in the police for the purpose of preventing crime, or of discovering criminals?
In the Bengal Provinces, I do not know of any great improvement yet.

1430. You think the police are not to be depended upon for the suppression of any insurrection or riot?
No, certainly not; nor are they efficient in common police matters.

1431. But there is a department for the purpose of the suppression of Thuggee, for example?
Yes; that is quite a different thing; that has been very successful.

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1432. How would you correct the inconvenience which you state to exist from the present mode of appointing civil judges?

Formerly in the Bengal service the judicial and revenue lines were more distinct; I think that all the junior servants, as soon as they leave the College of Fort William, ought to be sent as assistants to the collectors and magistrates; and after two or three years, I would give them (so far as the public interests permitted) the choice of the lines, judicial or revenue, and keep them to the line they selected.

1433. Do you think it would be possible to establish an examination for judicial appointments?

There has very lately been passed an order by the Government of Bengal, by which assistants to collectors and magistrates are to be subjected to two different examinations before they can rise to superior grades; the first is chiefly to test their knowledge of the vernacular language; the second is to ascertain their further proficiency in the vernacular language, and in their knowledge of criminal and fiscal law and practice. For the assistants destined to the judicial branch of the service, I would provide a further examination in the civil regulations, in the principles of law and equity, which have regulated the decisions of the Indian Courts, as ascertainable from the printed Reports of the Sudder Courts, and in the most useful portions of the Hindoo and Mahomedan laws, which have been rendered accessible by translations and treatises.

1434. Is that new system to which you have just referred, so far as it is introduced, designed to correct the evil arising from those young men, when they first come out to India, remaining at Calcutta?

No; the examinations are intended for young men who, having passed in the languages at the College of Fort William, have been sent into the country as assistants.

1435. Who conducts the examinations to which you refer?

They are to be conducted by Divisional Committees at certain large stations, under a Central Committee at the Presidency.

1436. Do they make reports upon the qualifications of the young men?

Yes; the Divisional Committees report to the Presidency Committee, who report to the Government.

1437. Who is the person who is required to examine them?

The Divisional Committees of Examination consist of the Commissioners of the Division, the judge of the district, and others.

1438. With reference to the native judges, what steps are taken to test their qualifications?

They are examined by committees.

1439. Is there not a college through which they must pass for the study of native law?

The education given in the Government Colleges is a general education; the professional follows afterwards.

1440. Are there separate colleges for training the civil servants for those positions?

The colleges for general literature I allude to, are for the natives.

1441. After they quit those colleges, which only furnish general education, how do they prepare themselves for the special duties of their offices?

By means of manuals.

1442. For private study?

Yes.

1443. Where is the examination conducted; is it at the seat of Government?

No; the examining committees sit at the chief stations in the country, and consist of the principal European and native officers at those stations.

1444. Do they make a report of the qualifications?

They do.

1445. To whom?

To the Sudder Court.

1446. If a man does not pass the examination properly, is he rejected?
Yes.

1447. Who has the power of rejection?
It rests with the committees; it is usually pleaders and ministerial officers of the Court who obtain diplomas for Moonsiffships.

1448. Are they competent judges of the qualifications into which they have to examine?
Yes.

1449. Can you speak to the nature of the examination?
The examination is in the civil regulations, and the rules of civil procedure.

1450. Is the examination confined to that, or is it ever extended to a knowledge of the English language; is that ever required, or is it considered an additional recommendation to a native candidate, though not absolutely required?
It is considered a recommendation.

1451. Is it a principle laid down or understood that young men who are educated in the Government college will get employment in the Government service?
Not unless duly qualified.

1452. Of those educated at our schools, would not a very large proportion be unfit for any office of trust in consequence of their low station in life?
No, I do not think that.

1453. How do the natives, selected for important judicial situations, acquire a knowledge of the native law; are there any recognized colleges for the study of such law, through which they must pass?
There are certain law officers, expounders of the Hindoo and Mahomedan laws, attached to our Courts, for whose training Hindoo and Mahomedan colleges were, many years ago, established by Government.

1454. You became a member of Council; how long were you in that situation?
Nearly five years.

1455. Had you any opportunity of judging of the expediency of separating the Government of Bengal from the office of Governor-general?
Yes, I had; I think it would be advisable, for several reasons.

1456. Will you have the goodness to state them?
In the first place, I believe, it is generally allowed that the Governor-general has too much on his hands; then the alternative is, he may appoint one of the ordinary members of Council to be Deputy-governor of Bengal: I think that is objectionable, for the reason that a member of Council ought to make himself master of every subject that comes before the Council, and that, occupied as he is with the Bengal administration, he has no time to do effectually; besides, it has generally happened, that the senior member of Council has been appointed, whether qualified by former experience or not; and a third reason is, the number of changes which, under this system, take place in the Government of Bengal; in the last 12 years there have been no less than nine changes, including the Governors-general; the Deputy-governors have been Mr. Ross, General Morrison, Mr. Bird, Sir Herbert Maddock and Sir John Littler; the Governors have been Lord Auckland, Lord Ellenborough, Lord Hardinge and Lord Dalhousie.

1457. If Lord Ellenborough had not continued Mr. Bird, when he twice returned from the Upper Provinces, there would have been two more changes?
There would, indeed.

1458. And if Lord Hardinge had not done the same thing, there would have been two more?
Yes. There is another reason, to which I attach great importance. There are certain months in the year in which a Lieutenant-governor might travel over his jurisdiction, by which means the existence of his control and authority would be more sensibly felt. I think that a principal cause of the successful administration of the North-Western Provinces is the personal supervision of

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the Lieutenant-governor, by which he has wonderfully increased the efficiency of all officers, European and native.

1459. Would you propose that the appointment of Lieutenant-governor of Bengal should remain with the Governor-general?

Yes, with the Governor-general in Council.

1460. What arrangement would you suggest as to patronage?

Under a similar Act to the 5 & 6 Will. 4, c. 52, the Governor-general, in appointing the Lieutenant-governor, could limit his authority, or extend it, as he pleased; of course such an arrangement might be made between the Governor-general and him with regard to the patronage as might be deemed advisable.

1461. You would not give him a Council?

No Council. I make the suggestion on the presumption that the Lieutenant-governor would be a man experienced in the detail of the Bengal administration.

1462. What portion of the business of the Government of Bengal at present comes before the Governor-general in Council?

No more than comes from the other subordinate Presidencies.

1463. Practically, does not the Government of Bengal fall very much into the hands of the secretaries if there is no Deputy-governor appointed?

Considering his onerous duties as Governor-general, I think it must, particularly when he is new to the business.

1464. Do you know anything about the Bombay and Madras Governments?

Not more than I gathered from the business that came before the Government of India.

1465. Can you speak particularly as to the advisability of having a Council in Bombay and Madras?

I can form a general judgment upon the subject. The only difficulty that occurs to me is on account of the army; if the Governor were a military officer, versed in civil affairs, I should see no difficulty; but where there is a military department, with only a civil Governor, I see a difficulty.

1466. Might not a general officer at the head of the military department, manage that department without being a member of Council?

The Commander-in-Chief has charge of the discipline of the army; the Government has the finance of the army, that is to say, all questions relating to their pay, allowances and rations, also questions relating to its arms, accoutrements, establishments, and so on. The Commander-in-Chief, as a member of Council, is, I presume, the person principally undertaking the military department of the civil Government.

1467. Supposing there were no Councils at the minor Presidencies, would there be any difficulty in the military administration of the army; would it not be as easy for the Commander-in-Chief to conduct the military establishment of the Presidency if there were no Council, and if, therefore, he were not a member of Council?

I do not see any difficulty.

1468. If there were no Councils at Madras and at Bombay, would not the civil service of those two Presidencies be considered to be reduced, and to have become inferior to the civil service of Bengal; would it not be considered as taking from the civil service of those two Presidencies a very great advantage?

I propose that there should be in the Council of India a member from Madras, and a member from Bombay.

1469. In the event of one member of Council coming from Bombay, and another from Madras, would you in that case think it essential to keep up the independence of the Presidencies as they are at present, or would it be possible to assimilate Bombay and Madras to the Government of Agra?

I am supposing that as the case is at present in the North-West Provinces, the Governor or Lieutenant-governor is thoroughly conversant with the details of the civil administration; and in that case, the only difficulty which occurs to me is on account of the army.

1470. With

1470. With the exception of the difficulty which you think exists with regard to the administration of the army, do you think it would be desirable to assimilate the Government of Bombay and Madras to that of Agra?
I think it would be perfectly feasible, and I think it might be advantageous.

1471. Do you think there is any necessity for the armies in the different Presidencies being kept separate and independent, or do you believe they might all be governed under one administration, and under one head?
I am not sufficiently *au fait* as to military matters to speak to that point; but I know at one time there was a difficulty about transferring some of the Madras regiments to the army of Bengal. I think the difficulty arose regarding the promotion of officers in the line.

1472. Is not there a great difference of language; would it not be a great hardship to move men from the south of India, for instance, to a country where they would not be able to speak the language?
I do not know about the Madras army; but I recollect seeing a statement called for by Lord Hardinge, of the constitution of the Bombay army, and I think half of the men at least were from the Bengal Provinces.

1473. Is it not the fact that the Bombay and Bengal armies have frequently acted together?
Yes, and so have the Madras; the only difficulty felt sometimes arises from a little difference in the allowances.

1474. Do you think it desirable that the civil furlough regulations should continue in force as they are now?
I would certainly alter those respecting leave of absence on medical certificate.

1475. For what reason?
Because the existing regulations were made under a different state of things. If a person is obliged to retire from the service for a time under a medical certificate, it is a great advantage to him to be able to come to England, where his health is likely to be best re-established. He cannot come to England now under medical certificate, or in any way without losing his office.

1476. He can go to certain other places without doing so?
Yes, he may go any where within the limits of the Company's old charter.

1477. Do you therefore think that it would be desirable that persons receiving medical certificates should be allowed to come on furlough to this country?
Yes, I do.

1478. And retain their situations?
Yes, the same as they do now, if they are forced away by ill health; an officer may be away two years on a medical certificate without losing his appointment, so long as he does not come to England, or to any places beyond the limits of the charter.

1479. Is it not practically found to be very inconvenient and inconsistent with the good of the public service, that a gentleman, after going away for two years under medical certificate, should return to his office, when probably he has in the two years lost all knowledge of the transactions which have taken place, and is, perhaps, physically and morally, not the man that he was when he went away?
There must be always a certain degree of inconvenience; but I think that in two years' absence he will not have lost all the benefits of his former experience: he is not rendered disqualified by two years' absence.

1480. Will he not have lost a knowledge of the current of events, he knowing nothing of what has happened during the two years?
He may soon read that up.

1481. Considering how much he has to read of current matter, will he be likely to do that?
If necessary he would; but in the judicial line, for instance, it is not necessary for him to know what cases have been decided in his absence; but should he wish to refer to any, he will find them recorded by his *locum tenens* in English.

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1482. Do you think that a temporary residence in England would be more prejudicial to an officer with reference to his future service than his remaining at the Cape of Good Hope?
Quite the contrary; I think it would be of the utmost advantage to him.

1483. You would not propose, in this country, to give two years' furlough to a Secretary of State?
I must leave that to those upon whom the responsibility of so doing would rest.

1484. Do you think it probable that the giving greater facilities for coming to England might have a tendency to injure the service, by leading the servants of the Company to be less attached to India, and to look more to England?
That depends so much upon the idiosyncracy of the individual. Some return to India with a great deal of information, and make better servants; others go back with a distaste for India, after the enjoyments of England.

1485. You think that in many instances it might have the effect of disturbing their minds, and leading them not to turn their attention so exclusively to India as they otherwise would do?
I think that would not be the case generally.

1486. Would you give them a furlough for a shorter period than is now permitted by the Regulations?
I do not feel inclined to do that. I think 10 years is not too long a period to spend in India previous to furlough.

1487. You are aware that there has been a considerable amount of agitation in both services in order to obtain an alteration, to the effect of allowing the furlough after a shorter period of service?
Yes.

1488. Can you state at all what proportion of the civil servants out of the whole are usually on furlough?
I cannot state that exactly.

1489. If an officer could return to England with the same facilities and advantages which are now given to him if he is on furlough on the other side of the Cape, would there not be greater danger of his taking advantage of that furlough on slight causes?
I think in that case you must have very stringent rules for granting medical certificates.

1490. At present he has no great inducement to go from his post of duty, except for health, to any place on the other side of the Cape of Good Hope?
No.

1491. What is your opinion with respect to granting medical certificates; do not you think that the practice is somewhat abused in the service?
I do not think it is in the civil service; I believe it is in the military; of course the opportunities are greater in so large a service. I will not say that it is not abused in the civil service, but I do not recollect any case of it at this minute.

1492. May it not be truly said on medical certificate of every gentleman in India, that his health would be benefited by three years' residence in England?
I do not know that.

1493. Are you of opinion that a number, amounting to nearly one-fifth of the whole civil service, should be allowed to be on furlough at the same time, including furlough and medical certificates?
One-fifth is a large number.

1494. In your opinion, is the promotion in India so slow, as often to leave the higher departments of the Government in insufficient hands, from the effect of the wear and tear of the climate, in the civil service?
No, I do not think so.

1495. How many years were you in India?
I was actually in India 30 years.

1496. Is

1496. Is that generally about the average time that persons rising to the higher grades in the service remain in India?
I think it is.

1497. You said that you were secretary to the Law Commission for a considerable time; are you of opinion that it would be practicable to form any code or system of law which should have a common application both to the natives and to British subjects?
It would be difficult; but I do not see any impracticability in it. Of course, with regard to the natives, you must retain their own laws of marriage, inheritance and succession, and so forth; but, otherwise, I do not see any great difficulty in it, because the general principles of law are the same all over the country.

1498. Was it not one object of the Law Commission to form such a code?
It was.

1499. And in pursuance of that object, the criminal code was formed and prepared to which you have already adverted?
Yes.

1500. In your opinion, are there any insurmountable difficulties in the way of adopting such a system for the common purposes of both people?
No, I think not.

1501. Were you in India at the time when the question of the practicability of translating the code was made the subject of a special reference to Sir Henry Elliot?
I was.

1502. Will you have the goodness to state what experiment was made by him with respect to the practicability of making such a translation?
He translated two chapters, which I examined myself afterwards, though I did not pretend to be the scholar that Mr. Elliot was, and I thought the translation very well done.

1503. Did he not translate one chapter selected on account of the intricacy of the subject, and another chapter containing the law of offences against the person on account of its great importance?
I think he did.

1504. You examined that translation yourself?
Yes; my critical knowledge of the language had declined from long disuse, but I thought it very well done.

1505. Do you recollect what the opinion of Sir Henry Elliot was as to the practicability of such a performance?
I believe he was quite confident that it might be done from the specimens which he translated himself.

1506. From your knowledge of India, do you think that there would be any serious difficulty in giving such a translation as would communicate the same knowledge of the new code that is now communicated to the natives of India of the laws which are passed in India?
It is more difficult for anybody to understand; it is an abstruse work; but I do not see why they should not be able to understand it by a careful study of it.

1507. We cannot expect that any code would be very intelligible to the mass of the community; but taking analogies fairly applicable to the question, do you think that there would have been any serious practical impediment, much less impossibility, in communicating a knowledge of the code of India to those branches of the population who in any country, even a more advanced country like ours, would have a necessity of being familiar with the code of laws by which they are governed?
I do not think there would.

1508. Was not the penal code, as originally framed, framed in a manner calculated to give instruction and knowledge to the mass of the people, namely, by coupling with the principles and enactments of the code, practical illustrations, pointing out the exact meaning, by examples, of the particular regulation?
Yes; I think those illustrations were very valuable for that purpose.

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1509. Were they not peculiarly appropriate in dealing with a population like the population of India, who might be more apt to understand an example than an abstract statement of a fact?
I think so.

1510. Was Sir Henry Elliot's translation submitted to any native parties?
He made the translation with the assistance of a native, I think.

1511. Was it ever submitted afterwards to the criticism of any native lawyers?
Not that I remember.

1512. What happened with it; was it taken into consideration in any way?
It was sent home while I was in the Council; but what became of it afterwards I do not know; there was another translation made of the whole code in 1849 by an officer in the North-Western Provinces, Mr. G. F. Edmonstone, also with the assistance of a native.

1513. Has it ever been submitted to any competent authority?
Not that I am aware of.

1514. Have you seen it yourself?
Yes, but I have not read it.

1515. Considering the degree of acquirement which has been shown, within your observation, on the part of the native judges who exercise judicial functions in the native Courts of First Instance, have you any doubt that a translation of that code might be made which would be sufficient to communicate to those judicial officers its meaning and import; do you think they would be competent to understand Sir Henry Elliot's translation?
I think so.

1516. While you were in the Council, did any question ever arise as to the respective powers of the Governor-general and those of the President of the Council during the absence of the Governor-general from the Council?
No, I do not recollect one; if the Committee wish to have a copy of the resolution passed at the time of the Governor-general's departure, showing the powers reserved to the President in Council, I have one at hand.

1517. Do you think it would be desirable to have their respective powers more accurately defined than they are at present?
I am not aware that any further definition is required; I do not remember any question arising on the subject.

The Witness is directed to withdraw.

Sir GEORGE RUSSELL CLERK, K.C.B., is called in, and examined as follows:

Sir G. R. Clerk, K.C.B.

1518. WHAT length of time were you serving in India?
Twenty-six years.

1519. In what Presidency were you principally?
In the Bengal Presidency.

1520. What were the principal offices you held?
I was there a short time as an assistant in the office of a judge and magistrate; for a short time also Assistant in the Secret Political Department; and then I went to the South-West Frontier in Rajpootana; I was stationed there in the British territory of Ajmeer. I officiated as Political Agent at Bhurtpore, at Jaypoor and at Kotah. I was Assistant to the Resident at Delhi; Political Agent in the protected Sikh States; Envoy to the Court of Lahore; Lieutenant-governor of the North-West Provinces, and Governor of Bombay.

1521. Will you state, generally, to the Committee your opinion of the administration of India as at present exercised?
I think the administration of India is very efficient; but the present form of the several Governments would, perhaps, admit of some alteration with advantage.

1522. Having

1522. Having served in the capacities both of Lieutenant-governor of the North-Western Provinces and of Governor of Bombay, have you formed any estimate of the comparative expediency of those two Governments; which appears to you to be the preferable Government?

I have not drawn a comparison between the two Governments, inasmuch as the one is a separate Government; the other is a Lieutenant-governorship under the Governor-general, and I think it ought so to remain without a Council.

1523. Is it your opinion that the Government of Bombay would be better without a Council, than with a Council, as at present?

No, I think not; I should prefer to maintain the Councils in Bombay and Madras.

1524. For what reasons?

In order that the proceedings of the Governors there should come fully under the notice of the superior authorities, that is, the Governor-general and the authorities at home, without which mode of communication, I can imagine the possibility of a Governor suppressing or neglecting to explain the scope of his objects and his projects to a degree that might not be quite safe. I do not know any other means by which without a Council subjects could be so amply discussed and made known in the proper quarters.

1525. Why does that remark not apply to the Lieutenant-governor of the North-Western Provinces?

The Government of the North-Western Provinces is under the immediate control of the Governor-general and his Council. For some years, indeed during the whole time of its existence, the Governor-general has been a good deal in the upper country, where it is situated, and has been enabled to exercise over it as much direct superintendence as he pleased.

1526. You think that the Governor-general would not be enabled to exercise the same superintendence over the minor Governments of Bombay and Madras?

I think not.

1527. Is that on account of their distance from the seat of Government, or from any other cause?

Partly on account of their distance from the seat of Government, and partly because in those longer-established and important Governments it has been found to be advisable to vest the power of acting in a more independent manner than the Lieutenant-governor of the North-Western Provinces has occasion to act.

1528. Are you referring more particularly to the military establishments of those minor Presidencies, or to the civil administration?

To the civil administration also.

1529. In what respect is the civil administrations of Bombay more independent of the general Government than that of the Lieutenant-governor of the North-Western Provinces?

The Governors of Bombay and Madras exercise the patronage of the whole civil administration, excepting appointments to Council; that is not the case, I believe, in the North-Western Provinces' Government.

1530. Is not that a matter of arrangement between the Governor-general and the Lieutenant-governor?

I am not aware how that is at present; but in my time it was entirely at the discretion of the Governor-general, who conceded to the Lieutenant-governor as much as he pleased, and retained in his own hands as much as he pleased.

1531. In your opinion that could not be done at the other Presidencies?

Not without rendering those Governments inefficient.

1532. Are not the territories under the Presidencies of Madras and Bombay so unlike Bengal, or the Upper Provinces, as to make it still more expedient that there should be a Council at each of those Presidencies, for the purpose of bringing the circumstances of every case before the Governor-general in Council?

I think it is very desirable on that account also to have a Council at Madras and Bombay.

 1533. Could

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1533. Could not the same object be obtained by the appointment of a member of Council from Bombay, and another from Madras to the Supreme Council?

Members of Council from Bombay and from Madras in the Supreme Council would be unnecessary, inasmuch as the members now appointed to the Supreme Council of India, if they are fit for the situation, ought to have that knowledge of the other Presidencies that should enable them to assist the Governor-general to the degree that could be desired of them; leaving to the Councils at those Presidencies the determination of local matters, which are very numerous and important, and would in detail too much occupy the time of the Supreme Council.

1534. Did you yourself find the advantage of a Council when you became Governor of Bombay, although you had had great Indian experience, in consequence of there being local circumstances with which you were not acquainted?

I may on some occasions have felt it rather a personal impediment, and obstruction to what I considered the due despatch of public business; but still, on reflection, I have often thought it advisable that important questions should in such Governments be subject to full discussion in the presence of two or three persons as a check to sudden impulses operating injuriously on ill-matured measures.

1535. Do you not think that, supposing the Governors were appointed at Bombay and at Madras, well acquainted with the local circumstances of those Presidencies, such Governors could without Councils administer the affairs of those Presidencies just as well as if they had Councils?

They will probably administer them very frequently more efficiently and more promptly; but I do not see how the Governor-general, who is to answer for all, is to be satisfied, unless he knows that subjects have been fully considered.

1536. That is to say, the Governor-general would not be so well satisfied with the proceedings of the Government of the minor Presidency?

I think he would not be; that is, in the case of a distant Presidency.

1537. Might not the deficiency be supplied by the appointment of Council for each of the two minor Presidencies to assist the Governor-general in the Supreme Council?

I think that would not be so efficient.

1538. Would there be greater difficulties in the Governors of Bombay and Madras, without a Council conducting the Government of those two Presidencies, than there are now in the Governor of Agra, conducting the affairs of the North-Western Provinces?

I am supposing the Governor-general (as has been the case for many years past) to be sometimes immediately superintending, or situated in, the North-Western Provinces, and sometimes in Bengal, which tends to render their Governments more efficient; and being so situated, he is better able to dispense with separate Councils for those provinces; in fact, it renders Councils there unnecessary. There are other peculiarities in the formation of the North-Western Provinces and its civil administration which render a Council unnecessary. Besides its Board of Revenue, it is fully provided with officers of rank, called Commissioners of Revenue, in whom are vested also high duties in almost every department; and subordinate to them there are the various officers which are to be found under the other Governments.

1539. Do not those Commissioners make circuits of inspection every year?

Yes; and, adverting generally to the questions on this point, I do not think members of Council necessary in those Governments so immediately under the superintendence of the Governor-general in Council: it would, therefore, be an unnecessary expense to the State to give a Council to Agra, or to Bengal.

1540. Are there any other reasons which make you think it would be impossible or unadvisable to assimilate the system of the Government of Bombay, or of Madras, to that of Agra, that is, to appoint a Lieutenant-governor immediately subject to the Governor-general without a Council?

I am not aware of any other objections than those I have alluded to.

1541. How would it affect the administration of the army; how would it affect the position of the Commander-in-Chief?

I do

I do not conceive that it necessarily should follow that the armies should be all combined more than they are at this moment, supposing Bombay and Madras were made Lieutenant-governorships.

1542. Do not you think, from your experience, that in the present mode of transacting business in the minor Presidencies, a great deal of unnecessary correspondence, and controversy, and discussion, and recording of minutes takes place?

Perhaps some of the minutes are longer than they need be, and occupy a longer time in the perusal, certainly much longer than they ought to do in writing; but that, I think, might be limited. I think it is very desirable that in the minor Governments the members of Council should be compelled to give in their minutes within a certain limited time, instead of a case being allowed to lie over for months while a member of Council is preparing a minute.

1543. To what matters are the letters of the Bombay Government to the Court of Directors confined?

They communicate directly with the Court of Directors on all important and emergent matters, otherwise with the Governor-general in Council; in marine matters they communicate directly with the home authorities.

1544. And also on all the affairs of the Persian Gulf?

Yes.

1545. And all affairs connected with the Red Sea and the Garrison of Aden?

Yes.

1546. But they also report to the Governor-general?

Yes; and they undertake nothing without the permission of the Governor-general.

1547. Is that communication with the Court of Directors at home necessary and convenient?

I think it is, on account of the position of Bombay, lying over to the west, so much nearer England.

1548. Is not the practice this, that if anything is to be done, the Governor of Bombay reports to the Government of India, and at the same time it reports to the home authorities, and it takes the orders of the Government of India, unless there is a direct interference by the home authorities?

Yes.

1549. Is any advantage derived from that double reference?

I think it is necessary that the Government of Bombay should immediately apprise the Government of India of everything that it does or projects; and it is necessary that it should report to the Court of Directors anything that is officially necessary to be done.

1550. Is there not some risk of having two conflicting authorities from such a double reference?

Certainly, there is always risk of collision in receiving orders from two quarters.

1551. Have you any instances in your recollection where the instructions of the political authorities at home and those of the Governor-general were at variance?

I do not recollect any.

1552. Does not the Government of Bombay also correspond with the Resident at Bagdad?

Yes.

1553. And which Resident at Bagdad reports to the Government of Bombay the despatches which he writes to the English Ministers at Teheran and at Constantinople?

He does.

1554. Is the administration of the marine entirely under the Indian direction of the Government of Bombay?

The local direction is under the Government of Bombay.

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1555. Are the vessels on the Bengal side also?
Yes, a marine; those of Bombay are called the Indian navy.

1556. The great marine establishments are at Bombay?
They are at Bombay, in consequence of there being fine harbour and docks there.

1557. Do the directions, with reference to the management of the navy, the building of ships, and such matters, come from the Government at home, or from the Governor-general at Calcutta?
From the Government at home.

1558. Is it by direct communication with the Government of Bombay, without the intervention of the Governor-general of India?
In general, it is so.

1559. Are you of opinion that it is desirable for the East India Company to maintain a separate and independent marine, or would it be equally efficient if they availed themselves of the Queen's ships, as they avail themselves of the Queen's troops?
I think it is desirable that they should have an independent Marine always under the orders of the Government of India.

1560. Will you state the reasons which induce you to come to that conclusion?
I do not think that Her Majesty's ships can, for some purposes for which the Indian navy is now employed, be so efficient; for instance, for the protracted surveys on the coast of Arabia and the Red Sea, the Persian Gulf and the coast of Scinde, where the heat is extreme. I do not think our sailors could soon be acclimated to that sort of thing, and would thus be more frequently on the sick list, both officers and men.

1561. Are the crews of the Indian navy chiefly composed of natives?
There are many Europeans inured to the climate. The heat on the coasts where they cruise is greater than is experienced in any part of India.

1562. Do not the ships belonging to the Royal navy perform the same description of services in the Persian Gulf, and in other parts in the neighbourhood of Bombay, and on the coasts of India and of China; do not they there and in other places perform the same services upon which the Indian navy have been employed?
Not such surveys and other duties as I am referring to; I do not know that Her Majesty's ships are constantly so employed in those seas.

1563. For purposes of war, do you consider the vessels of the Indian navy equal to the vessels of Her Majesty's naval service?
Certainly not; but for warlike demonstration in that quarter, the marine now in question is quite sufficient—for instance, to deter from piracy the Arabs in the Persian Gulf, a very important part of the duty of the vessels of the Indian navy: piracy there, and the slave trade, would be rife to-morrow if not suppressed by ships sent now and then into that Gulf, or by a vessel being employed constantly at the head of the Gulf; but for such precautions, there would be a recurrence of such lawlessness as formerly required expensive expeditions to be fitted out and despatched from India for its suppression.

1564. Are there many Arabs on board the Indian navy?
No.

1565. Are not they the best sailors?
They are good sailors; but I do not think many of them take service with us; we have Lascars, and a certain proportion of Europeans.

1566. Are you aware of the relative expense of the Indian navy and of the Queen's ships?
Not precisely.

1567. If there were no Indian navy, would it not be necessary greatly to increase the amount of the Royal navy employed in those seas?
Certainly, greatly.

1568. And

1568. And permanently at all times, whatever might be the pressure and demand at home?

I should say that they ought to be employed there permanently.

1569. You say that you think that the vessels of the Indian navy are peculiarly serviceable, and even more serviceable than those of the Queen's navy, for making surveys and performing other similar duties, coasting duties. What reason have you for so thinking; is not the Queen's navy employed to perform exactly similar services?

I think I added "in such a climate as they are subjected to." I speak from recollection of the climate of the coasts of Arabia and Persia; I can conceive nothing more trying to the European constitution: having seen vessels on service on those coasts, I should say that the duties of officers and men, at sea and on shore, subject them to considerable exposure to the influences of an uncongenial climate; moreover, it is desirable that some of the officers or men should understand something of colloquial Arabic; such is often the case with these ships, and I consider that no vessel undertaking such duties ought to be dependent on a single individual (an appointed interpreter, for instance), for ready communication with natives of coasts where they cruise.

1570. Do you consider the climate more injurious to the sailors than the climate of the West Indies, or of the coast of Africa, or of the Indian Archipelago, in which Her Majesty's ships are employed, and where they perform the duties which you have described?

Perhaps not more so than the West Indies; and with regard to the other unhealthy coasts, it may not have been yet sufficiently tested whether certain duties might not be efficiently performed at less expense, and with less sacrifice of life, by the employment of local acclimated establishments.

1571. Are not the officers of the Indian marine, who have to undergo all those perils and suffering from climate, all Europeans?

Those officers begin their service at the age of 15 or 16, and so become, I believe, healthier than the European constitution otherwise proves in tropical climates.

1572. Is it found that a large proportion of them do suffer from the climate when they are employed in this service?

I do not think they do suffer beginning so early; they may suffer at first; but, being young, they grow up inured to it.

1573. You think that the officers of the Royal navy, not being so brought up, would be more liable to suffer from the climate?

Yes.

1574. Are you of opinion that the system of reference to the home authorities has been beneficial to the service at Bombay, or the contrary?

I think that, inasmuch as it procures prompt answers on highly important matters, it is advantageous; but inasmuch as it has a tendency to induce the authorities to refer unnecessarily on minor matters to England, it is to be deprecated.

1575. Did you find, during the period that you were Deputy Governor of the North-West Provinces, that the understanding which you came to with the Governor-general, with regard to patronage, worked satisfactorily?

Perfectly satisfactorily.

1576. Would you suggest any alteration in the present system?

I beg to state that during the short time I was there, the Governor-general being good enough to leave me ample discretion, of course I personally found no difficulty in anything; whether that discretion was properly exercised or not, is another matter; but in determining the subject of the North-West Provinces' Government, the first step to consider is where the Governor-general is to be; if he is to be fixed at Calcutta, of course it requires one mode of administration as to the determination of the patronage; if, on the other hand, he is to be removed to a more central position, and to one more suited for efficiently and beneficially governing India, then, of course, another mode of dividing the patronage might be expedient.

 1577. Supposing

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1577. Supposing the present system to continue, so far as that Calcutta should be considered the permanent seat of Government, but that, practically, the Governor-general should frequently visit the North-West Provinces, as he has done of late years, would you then recommend any alteration with respect to the patronage?

I am not quite sure what the understanding is at present; but the plan I would suggest is, that the high appointments should remain in the hands of the Governor-general, and that below them all appointments to district offices should rest with the Lieutenant Governor.

1578. Would it be, in your opinion, desirable to remove the seat of Government from Calcutta?

Certainly.

1579. To what portion of India would you remove it?

To some central spot; I should say Agra.

1580. Upon what grounds have you formed that opinion?

There are very important political relations which can be conducted only by the Governor-general, or by some person in whom he can place the utmost confidence. At Calcutta he would be so distant, that to whomsoever he might delegate his authority, he might feel great anxiety at times regarding the conduct of those relations, especially at the present day, when in the North-Western frontier of India we have reached a point which opens out the prospect of involving us in a further extension of dominion.

1581. Supposing the Governor-general were settled at Agra at this moment, would he not have felt increased anxiety with respect to the transactions which are passing with the Burmese?

He would place himself at Calcutta upon an emergency, of course.

1582. Are there not advantages in Calcutta being more accessible by sea?

I do not see what advantage that is as to the exercise of supremacy in India; for so far as respects the communication with England, that it is now generally effected through Bombay, being nearer than by Calcutta, and, with proper provision made, it could always be more speedy by that nearer route.

1583. Do you think that the public offices should be removed from Calcutta to Agra, or to whatever place you might think it expedient to select as the seat of the Government?

Yes; and the great expense of that removal ought, in some measure, to determine the selection of the new position for the Government of India. I imagine that either Agra or Allahabad would furnish buildings to a considerable extent towards providing a new seat of Government. Then comes the question of the value of the property that would be left in Calcutta; it must be very valuable, and it ought to cover the whole expense.

1584. Would not the value of property in Calcutta be very much reduced in the event of the seat of Government being transferred to some other place?

It would probably suffer in some degree.

1585. May not the opening of a railway up the valley of the Ganges make it a matter of less importance to have the seat of Government fixed higher up the country?

Wherever the seat of Government should be fixed, it would ensure good lines of communication with it, and in time a railway.

1586. Is there not great objection to fixing the Governor-general anywhere; is there not great advantage to be derived from the Governor-general seeing various parts of the country with his own eyes, and seeing in what manner the Government is conducted, what improvements are required, and what is the condition of the people?

Certainly, that is an advantage; but the more central his position, the less necessity there is for his moving about; though it is always attended with advantage, and still more so in the case of his subordinate Governors.

1587. If it had been considered desirable to place the seat of Government at Agra, would not one great objection to its being fixed there have been removed by the arrangements made in 1844 with the State of Gwalior, substituting an army

army commanded by European officers for the army of the State of Gwalior; did not those arrangements made at the beginning of the year 1844 remove one great objection, which would otherwise have existed, to the establishment of the Government at Agra?

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Decidedly.

1588. We could not have established the seat of Government within four days' march of 30,000 men?

It would have been objectionable.

1589. Would not the annexation of the Punjaub be another great consideration?

That would be another very strong reason.

1590. You have seen a great deal of the native States; you have seen the character of their Princes and of their Governments; do you think that it should be our policy to take every plausible occasion of declaring that a lapse has taken place, and of appropriating to ourselves the territories of native Princes, or should we rather, on principle, direct our policy to the maintenance of the native States, as an essential part of our system, in the same way in which the maintenance of those States, Hindoo as well as Mahomedan, was always a part of the system of the Government of the Mahomedan Emperors of India?

We ought at all times to act in perfect good faith; in seeking for every opportunity to acquire the territory of the native chiefs, we are desiring and craving to do that which we neither wished to do, nor dared to do, when we were less powerful.

1591. Does not our confiscation, to our own purposes, of the territories of a native Prince, under any circumstances involving the smallest doubt as to our right to do so, materially affect our character and our influence with all the other native States?

It leads them to trust less to us than otherwise they would do; it gives us a character for inconsistency and uncertainty as to our maxims and rule.

1592. Are not many of the native Princes of India persons of great respectability, as well as great ability, in the science of government, and are not many of their States as well or better governed than our own?

I have seen some native States very well governed, with great security to life and property, and with great content and prosperity among the higher and middling classes; but I think the condition of the lower classes is much more satisfactory in the British dominions than in the native States.

1593. During the time that you were acquainted with the affairs of the protected Sikh States, did many of the cultivators emigrate from the territories of Pateeala into our own?

I came to an understanding, when in that situation, with the chiefs, as I had done wherever I had been previously, with regard to the villages and districts under my own administration, that the cultivators should be at liberty on either side to emigrate, either from me to them, or from them to me; of course I laid myself out to get as many as I could; but I think the instances were rare in which they were induced to come over to British villages, and I hope they are still rarer in which they have gone from us to them; some few instances of that may have occurred.

1594. Have not the natives of India great attachment to their own villages?

They have, certainly, as much as people in other parts of the world; but they can, owing to their few wants, remove readily from subjection to oppressive rule.

1595. Without canvassing very carefully the relative advantages of our Government and that of the native State in which they reside, have they not generally a great affection for what they call the Raj, for the separate government of their own Prince?

They have.

1596. They are very desirous of maintaining it?

Generally.

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1597. Of maintaining the Raj even where the family of the Rajah may be extinct?

Certainly, by adoption.

1598. Would you recommend that the principle of adoption should be allowed its full extension?

Wherever we have led them to believe that they should inherit by adoption, and that we would not interfere with their customs.

1599. But we have no right to interfere, except in the cases in which we have made that proviso in granting the land?

No.

1600. What is the right of adoption?

The right of adoption among the Hindoos is for the chief to adopt; that is the law as applicable to private property; and that being the Hindoo law, there is, as regards chiefships, a similar prescriptive right which has come down through all ages as long as such chiefships have existed. We, in practice, have carried that out whenever we have come in contact with a powerful State; and we have not only admitted that such adoption is sanctioned by the Hindoo law, but have sanctioned such latitude of adoption as the Hindoos never heard of in their law of private property, for we have suggested even to the widow to adopt, without her having any idea of adopting, as in Scindia's case, and in Holkar's case. In other instances we have felt our strength, and we have not admitted adoption even by the chief himself; and those instances of inconsistency and arbitrary decisions become, in my opinion, a source of some weakness to our authority.

1601. In the cases you have mentioned, where you say we suggested an extension of the right of adoption beyond that which was recognised by the Hindoo laws, what laws do you refer to?

The Hindoo laws of private property; they have no other laws.

1602. Was that done upon the general principle that it was important to retain those States in independent Rajship?

That is to say, in those cases we had not the means of acquiring it, and taking possession of it.

1603. Without the risk of war, which would have been far beyond the value of the thing to be acquired?

Yes.

1604. In point of law, we have no legal right to succeed to any chief who may die without heirs?

No legal right by the written Shasters.

1605. Do you imagine that we have established such a custom upon this point, that it would now be considered as a breach of expectation if we limited the principle of adoption within the limits of the Hindoo law or custom?

Yes, it would be so considered.

1606. We have established a wider extension of the law or custom of adoption?

I cannot say that we have established it, because the practice has been so varied; we are not regarded as having adopted any definite system.

1607. Do you consider that there is any general expectation, which would be disappointed by our pursuing either course?

No general expectation.

1608. If our Government had not resisted, the adoption would have taken place in consequence of the desire that it should take place, and that the Raj should be preserved both in the case of Gwalior and Sattara?

Yes, in Sattara immediately; in Gwalior, after the dependent chiefs should have disposed of the pretensions of a would-be Regent.

1609. In what respect have we gone beyond the acknowledged legal practice and right of adoption?

In extreme cases by ourselves suggesting adoption after the death of the chief. Among the Hindoos it is the usual practice before the chief's death, that he

he should adopt some heir by observing particular forms, including putting a turban on the boy, or laying a hand upon his head.

1610. Is there any particular rule observed in selecting the person to be adopted?

He should be the nearest heir; but any collateral heirship may be acknowledged.

1611. Is it necessary that he should be an heir at all?

Not by every authority in Hindoo law.

1612. Has that principle of the adoption of a person who is not related to the family been applied at all to the cases of independent Princes?

In some cases; and in others the heir has been so distant, that it is impossible to trace his kindred, though said to be collaterally related.

1613. Have you not observed that even our troops pay great respect to the native Princes?

Yes, to the pageantry; they admire that.

1614. No native Prince ever passes a sepoy without receiving a salute?

No; they entertain, generally, respect for a chief's position.

1615. Do you think that the natives consider themselves in an inferior and degraded position from being resident in the British possessions, as compared with being residents under an independent sovereignty?

Certain classes would consider themselves less prosperous; but the lower classes have no sense of being degraded by being under our dominion, and certainly not the agricultural classes, generally.

1616. You stated that certain classes would consider themselves in an inferior position under British dominion; are there not classes that would consider their condition to be better under British dominion?

The agricultural classes and the small traders.

1617. As being less liable to imposition, and the subjects of more impartial laws?

Certainly; those who may be dissatisfied are such as the Jaghiredars, and any men of any class possessing rent-free lands, or other means of affluence, that under native Governments admit them to privileges and to intercourse with their rulers on terms such as are commonly felt to be irreconcileable with prevailing ideas of English civilization, social habits and convenience.

1618. What are the classes that would prefer the independent native sovereignties to the British rule?

The classes I have mentioned.

1619. Must not those be regarded as an increasing class from the progress of civilization and the accumulation of wealth in the country?

The classes I allude to who are not satisfied under our system have a tendency to diminish; for instance, we resume rent-free and jagheer lands whenever we have an opportunity; others enjoy not those privileges under the British Government that they would under a native chief.

1620. If the possession of wealth and intelligence would lead the natives of India to the appreciation of any difference which may exist between British dominion and native dominion, is it not important that the principle of action which will lead to the contentment of such classes, and the improvement of their condition, should be the principle acted upon?

Certainly.

1621. Are the Committee to understand that those Jaghiredars who are dissatisfied with British rule are generally less intelligent than other classes who are satisfied?

I do not know that they are less intelligent, but they are more liable under our Government to lose some of their privileges.

1622. In which country is there the greater gradation of ranks, in the British territory, or in that of the native Princes?

It varies much under the British Government; in some places there are con-

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nected with the soil "Ryots" only, or cultivators, and then, generally speaking, there is nothing between paupers and the Government; in other parts the land settlement is made with a higher class, or "Zemindars;" elsewhere with a small fraternity possessing a village, thus forming many grades in the agricultural classes.

1623. Which system of managing land is most beneficial to the people at large, by Ryots or by Zemindars?

They have their respective advantages, but the Ryotwarree is most detrimental to the country, because requiring much more superintendence of so minute a kind that it is impossible to extend over it that European superintendence which is essential to its prosperity.

1624. Is not the character of the population in our dominion more generally that of paupers?

Only where the Ryotwarree settlement prevails, I should say.

1625. In the native states are there not more gentlemen of property than are to be found in our own?

Yes.

1626. Would that be an observation that would suggest itself to a native Prince who came from his own country to meet the Governor-general in ours?

Certainly.

1627. Can you state, from your own experience and observation, in which class of countries the natives are enabled best to improve their condition and to accumulate capital, whether in those under native dominion, or in those under the dominion of the British Crown?

Among the higher classes capital would accumulate most in the native States; but the agricultural classes in general thrive best in the British Provinces, under a certain description of land revenue settlement.

1628. Under which settlement?

Any fairly imposed settlement, except the Ryotwarree settlement.

1629. Do you think they accumulate property under the Zemindary settlement?

It depends upon the class of cultivators; it does with the Hindoo, who is a thrifty man, but not with the Mahomedan.

1630. Among the Ryots under the Zemindars, do you think there is much accumulation of property?

No, there is not among that class in any country in the world that I have seen.

1631. Do you think that the Ryots under a Zemindar are worse off than under the Ryotwarree system under a Sircar?

No; but the defect in the Ryotwarree, as it seems to me, is not to be ascribed to any inherent unfairness in that system itself, but to its requiring that degree of superintendence and support on the part of upright, vigilant and zealous men, which it is impossible for our costly agency generally to afford, when gradual impoverishment, bad seasons, or other calamities, visit the lands. At such times there is not at hand for the Ryot within his own means, or on the part of his only masters, the State, the requisite prompt and effectual assistance.

1632. But, practically, do not you think that the Ryots under the Zemindary system are as badly off, or worse off than they are under the Ryotwarree system?

They ought not to be.

1633. But are they not?

I should say that in Upper India they are not so badly off.

1634. Is it not the fact, that where a survey, or assessment, has been made under the Ryotwarree system, nothing more than the assessment can be taken from the Ryot?

No; nothing more can be taken from the Ryot; I did not allude to an excess being extorted from him, but that in bad seasons he is short of seed, and what not, and likely to break down, and there is no aid constantly present to prop him up.

1635. Do you think he would be more likely to get assistance under the Zemindar?

Certainly; the Zemindar would afford it to him.

1636. Does not he obtain some assistance under the native Prince?

Yes; more readily, because under a good government it is part of the native system to be more perfectly acquainted with his necessities, to keep grain in store, and to make advances for purchase of oxen, and especially for seed-corn; we make pecuniary advances, under strict limits; but our collectors are not allowed, in this respect, the requisite discretion, nor have they the time to see to its just distribution, or its considerate recovery.

1637. Has not the Raja of Pateeala managed his territory as an English proprietor would manage his estate, taking as much care of his subjects as an English proprietor would of his tenants?

In many years I do not remember an instance of cultivators abandoning their lands, to settle in the adjoining British territory.

1638. Are you acquainted with the territory of Bhurtpoor?

I was political agent there for a short time.

1639. That was some time ago?

Yes; its condition was admirable; and it also appeared to me highly cultivated, when visiting it before its fortress was reduced by the British arms.

1640. What is the state of the little Raj of Ulwar?

They have some of the finest cultivators in India, the Jats, of which the Sikhs are made; they are always good cultivators, wherever you find them.

1641. In those two states of Bhurtpoor and Ulwar, are there many gentlemen of property?

Yes; small chiefs and tulookdars.

1642. Do you think, from your recollection of those countries, that a stranger passing through them, and then passing through our own country in that immediate neighbourhood, would consider that our Government or that their Government was the best, judging from the appearance of the country, and of the people?

Bhurtpoor, if I recollect rightly, has some advantages in respect to cultivators; but I should say that there was nothing else in favour of Bhurtpoor, as compared with the adjoining province of Agra. I have not visited either for twenty years; but, on coming out of those independent States into other British districts, I have been struck with the improving appearance of the lower orders; another striking circumstance is, that on the road an armed man is seldom seen, while in the native States it is an unusual thing to meet any man without his sword or spear.

1643. Would you consider the comparatively flourishing condition of those two small States the rule or the exception to the condition of the inhabitants of most of the native States of India?

Those which have been alluded to are some of the best.

1644. Would that description apply to the territories of the Nabob of Oude, or to the territories of the Nizam, or to most of the large native States of India?

It is many years since I have seen anything of Oude. But there are other States in the south-west, as in Malwa and Rajpootana, which are prosperous; they are fertile, and I believe the administration is good. There are others where oppression is said to prevail, such as Oude and the Nizam's territory; but with those I have no further recent acquaintance than from hearsay. During my government of the Bombay Presidency, hearing that the Nizam's territory was in a state of anarchy, and tyrannically governed, I thought it might be beneficial to the territories of Bombay, the condition of which, as far as its land-revenues go, is by no means prosperous, but I never could ascertain that we gained anything by that oppression which was said to prevail upon the borders. There was no migration to our land from the Nizam's territory. That is all that I know particularly of Oude and the Nizam. I might add, that I was not made sensible of the insecurity prevailing in the Nizam's territories by its affecting our contiguous border in any way.

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1645. Do the native Princes lay out much money in internal improvements, such as roads, tanks and canals?

In tanks, canals and irrigation, they do; not roads; they have an objection to high roads.

1646. Are not many of the quarrels among themselves for the possession of streams of water?

There are constantly very serious quarrels on that subject.

1647. Have we done as much in the way of irrigation as the native Princes have done?

Certainly not, except what has been doing for the last 15 years on the Jumna and on the Ganges.

1648. Would you consider it advantageous to borrow money in India for the purpose of carrying on internal improvements?

Certainly.

1649. As much so as for a gentleman of large estate in this country to do so?

Certainly; it would yield the best return.

1650. Generally speaking, do you consider that life and property are much more secure in our territories than in the territories of any native Prince whatever?

Certainly, generally speaking.

1651. It is stated, in some works upon India, that the native words implying total ruin, confiscation and devastation of a territory, still continue to be used in the native States, and that their meaning is recognized there, whilst in the adjacent British territory the very significance of the words is unknown, and the words themselves have been forgotten; do you consider that that is a probable statement, and can you refer to any facts that would justify you in expressing that belief?

I think it is possible that such terms may be considered obsolete now in the British Provinces.

1652. Is not it likely that such terms may have been coined at the time of the incursions of the Mahrattas and the Pindarrees, in the districts which were within the reach of their devastation?

That may have been.

1653. Were you ever in the country of the Southern Jaghiredars, which are in the Government of Bombay?

No, I had not time to go there.

1654. Is not that country understood to be extremely well cultivated?

I believe it is, as is Sattara; further than which I had no opportunity of personal inspection.

1655. The Rajah of Sattara managed his country very well, did not he?

He did.

1656. You state, that you conceive that, with some alterations, the present system of the Government of India is the best for the country. Will you have the goodness to state what the alterations are which you would propose?

I had in mind principally what I have ventured to state with regard to transferring the seat of the Government of India to Agra, and what I have suggested regarding the Government of Bengal.

1657. Are there any other alterations which you can suggest, which you think would be of advantage to the country?

I think that the Government of India should recommend to the authorities at home the members for Council.

1658. And that the Crown should approve of them?

I do not suggest that being regulated, otherwise than it may now be in England; but the Governor-general in Council should, I am of opinion, recommend the individuals for the Supreme Council in India, subject to the approval of the authorities at home.

1659. You said that the Lieutenant-governor of the Upper Provinces had great

great advantage from moving about the country. Do you think it would be an improvement if the Governors of Bombay and Madras were also encouraged to move about their territories?

It should be compulsory upon them; they should not only be encouraged to do it, but required to do it.

1660. Are there any other alterations besides those you have suggested which you think would tend to improve the administration of the Government of India?

I have stated that I would recommend an alteration of the Government of Bengal; I would put it on the footing of the Lieutenant Governorship of the North-Western Provinces.

1661. You would have a Lieutenant Governor of Bengal without a Council?

Yes.

1662. Supposing the seat of the Government of India not to be changed, as you have suggested, but to remain at the same place, you nevertheless suggest that the Governorship of Bengal should be separated from the office of Governor-general?

Yes; but I would have it under the control of the Governor-general in the same degree as it is now; though I think it might be rather premature to determine regarding Bengal, till the issue of this Burmese war is known. Maritime and commercial considerations may operate to make it necessary to give the Governor of Bengal greater power, supposing the Governor-general is away for a time.

1663. You would establish a subordinate Government of Bengal, by a Lieutenant Governor, such as that which exists now in the North-Western Provinces?

Yes.

1664. So that the Governor-general should not be burdened with the details of the local Government of Bengal?

Yes.

1665. Would it not in that case be advantageous to give the Governor-general in Council the power of selecting some civilian other than a member of Council as Deputy Governor of Bengal?

Yes; I do not see why he should not select any individual that he pleases: in fact, I was not aware that he was limited to a member of the Council.

1666. Is not there an advantage in the Governor-general of India acquiring, as Governor of Bengal, the knowledge which he is thus forced to acquire of the details of Government?

I think that, under such a system as I have ventured to suggest, he would see sufficient of the details of the Government in the North-West Provinces: a complete record is kept of everything that transpires; and he must, if he has time to read all reports (which he has not), see sufficient of the details of the administration of India, even if it were entirely new to him.

1667. As the law at present stands, a knowledge of the detail is forced upon him?

Yes; occupying more of his time with details than I should suppose to be necessary.

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned till To-morrow, One o'clock.

Die Martis, 25° Maii 1852.

THE LORD PRIVY SEAL in the Chair.

Sir GEORGE RUSSELL CLERK, K.C.B., is called in, and further examined as follows:

1668. YOU were resident a long time in the Punjaub?

Yes; It was a separate State when I was there; I was Envoy to the Court of Lahore, which then existed as an independent Government. I was principally residing on the south of the Sutlej, the Governor-general having left it to my discretion to go to the Court whenever it should be advisable, in order to forward any particular views.

1669. Have you formed any opinion as to the best mode of governing that newly-acquired territory, and as to whether it should be made a distinct Presidency or not?

I do not think it is sufficiently extended to form a separate Government or a separate deputy Government, but there is no doubt that it is a very important acquisition, not only in itself, but bordering as it does upon Mahomedan countries, which are almost boundless, commencing at Peshawur. The authority to be exercised over that province by an officer subordinate to the Governor-general would, however, depend very much upon the position occupied generally by the Governor-general of India; for instance, were the Governor-general stationed in the central part of India, authority, such as at present immediately governs the Punjaub, might continue to suffice either in the shape of a Board or of a single Commissioner; on the other hand, supposing the Governor-general to be more remote, it is then, I think, indispensable that a Governor or Lieutenant-governor should be present on that frontier, exercising almost as much authority as the Governor-general.

1670. That is, in your opinion, a good reason for removing the seat of Government from Calcutta?

It is one reason; it would follow in that case that a functionary of very high rank would not be required in the Punjaub; but, in fact, the Governor-general being now at a great distance, I would suggest that it is most advisable that there should be in or near the province some authority almost equal to that of the Governor-general, and vested with much discretion in the most important political functions that exist at present in India.

1671. In the event of the Governor-general remaining at Calcutta, or during his residence at Calcutta, might it not be convenient, with a view to the more efficient government of the Punjaub, and the more convenient dealing with all political relations in that neighbourhood, to bring the Lieutenant-governor of the North-Western Provinces higher up to Delhi, even to Merut?

He ought to be brought higher up if the Governor-general remains in Calcutta; in fact, supposing the Governor-general to continue there for the most part, it might be advisable to form a full Government in the North-Western Provinces.

1672. Do you mean by a full Government, a Governor with a Council?

I think that, for the present, a Government vested with ample political powers,

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but in other respects such as there now is at Agra, moved on to a more westerly position, would be sufficient.

1673. If the Governor-general remains permanently at Calcutta, must he not remain permanently unacquainted with the condition of by far the largest portion of the country, and be liable to form a very incorrect judgment with respect to the measures necessary for its government?

He must.

1674. Is there not a material distinction between the character of the people in the Lower and in the Upper Provinces?

There is.

1675. So that it could hardly be said that the same Government was equally good for the population of the two districts?

No, it could not; they are totally distinct.

1676. You state that they are different classes of persons in the two districts; what is the prevailing religion in the North-Western Provinces?

They are Hindoos, Mahomedans and Sikhs, brave and military people; in Bengal the people are very much the reverse.

1677. And you think that on that account it would be necessary to have the Governor stationed nearer the frontier than he is at present?

With regard to the Punjaub, not only in consideration of the difference in the character of the people, but also of the very important political relations which our position now in the Punjaub opens out to us; it has brought us into immediate contiguity to the great Mahomedan nations, and it might involve us again in negotiations, the extent of which it is difficult to calculate.

1678. You have stated the kind of Government you would wish to see established; will you have the goodness to state the nature of the power that the Commissioner should have?

It must for a time be ample; a Commissioner such as I am supposing might suffice where the Governor-general in Upper India should still have much authority; of course it would rest with the Governor-general to vest any powers he liked in the hands of such an officer. It might be requisite for the Governor-general, if remaining in Bengal, to entrust him with the fullest political powers, but not so if the Governor-general were near at hand; and as I said before, if the Governor-general is to remain permanently in Calcutta, it would require that the office should have all the prestige of a Governor or a Lieutenant-governor about it; in the choice between these designations is the question of the greater or less expense.

1679. Do not you think that, generally, there is much more responsibility felt where power is entrusted to a single individual, than where it is entrusted to three gentlemen acting together as Commissioners?

I think, generally speaking, with regard to newly-acquired territories, that you have greater efficiency in their Government by means of an individual, than by a Board.

1680. May it not frequently be necessary to come to an instant decision on matters of great importance, and would not delay be occasioned by a conference of three persons?

Sometimes emergencies do arise, especially in India, where a Governor must act in a moment.

1681. In fact, in the Punjaub we may be considered as in the midst of enemies ready to spring up upon us?

There are, I dare say, one or two classes hostile to us in the Punjaub at present; but I should observe that since I have left India, I have not had the means of ascertaining in that respect our position in the Punjaub.

1682. From the feeling of the people in India, if the Government were entrusted to a single individual, would he not possess greater power than could be possessed by individuals dividing the power; is not the principal influence in that country personal influence?

Certainly, that feeling pervades the whole system of submission of the natives to us in India; generally speaking, they look to the district officers, and not much further;

further: those who look beyond look to the higher authorities; no native of India looks ordinarily beyond the Governor-general of India.

1683. You stated that in case the Governor-general were to remain permanently at Calcutta, it would be necessary to have a Governor in the Upper Provinces armed with the authority of the Governor-general; would not the nature of the duties which the Governor-general would have to delegate to him be of an important political character, and therefore more affecting India generally than those which the Governor-general delegates to the Governors of Bombay and Madras?

Certainly; I alluded to the political functions that he would have to discharge.

1684. Those political functions necessarily arising from his position?

Yes.

1685. In fact, without a special delegation, the officer acting upon the frontier is frequently obliged to act upon his own responsibility, and to take important steps, without reference to the Governor-general?

He is.

1686. And that is one of your reasons for desiring that the central authority should be more closely connected than it is at present with that part of the empire?

It is.

1687. Are you aware whether the same system, as regards the lower grades of the establishment that has been established in the Punjaub, has been established in Bengal and the North-Western Provinces?

I am not thoroughly acquainted with the present system of administration in the Punjaub, but I believe it is very efficient, very able men having been selected as members of that Board of administration; there are Commissioners and Deputy Commissioners under the Board, and those Commissioners are vested with judicial, revenue and police authority.

1688. You have made use of the expression "under the Board;" will you state what Board you mean?

There is a Board of three members governing the Punjaub, under the orders of the Governor-general.

1689. Selected by him?

I imagine so.

1690. Not appointed from home?

No.

1691. Would it be possible to apply the same mode of administration to the Punjaub that would hold good in the other parts of India?

Decidedly not, for some time to come; it takes a long period to break in the natives of India to our code of laws. It requires that our functionaries should at first exercise much discretion in that respect, preserving, in some degree, the institutions they find existing, some of which are very perfect and efficient.

1692. The penal code prepared by Mr. Macaulay, which is intended for the government of the whole of India, would not be applicable to that part of India?

It depends upon what that penal code may be; it has not been in operation yet, and I suppose it will be considerably altered and modified before it is carried into effect; but even supposing that it could be brought into operation immediately, I should say that a territory so recently acquired as the Punjaub was not fit to receive it.

1693. The code was made before the Punjaub was annexed to our territories?

Yes; I think it is possible that before that code is so digested as to be brought into operation, that recently acquired territory may be fit to receive the code; if it were attended to immediately by men competent to undertake that important task, it would require two or three years to prepare it.

1694. In your opinion, it is not in a fit state for adoption at present?

Nobody supposes that it is in a fit state at present; but there is a valuable groundwork laid down on which to form a suitable code.

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1695. Under what code of laws were the Sikhs in the Delhi States previous to our conquest?

They were entirely under their own rules, customs and prescriptive rights.

1696. Not written laws?

No.

1697. In what way was the revenue collected; was it principally in kind?

No; frequently farmed, and by the assessment of fixed rates; but a village preferring to pay its revenue in kind would commonly be allowed to do so.

1698. Are you aware that just previous to the appointment of Sir Frederick Currey to the situation of Commissioner in the Punjaub, during the period which intervened between the first and the second war, in the course of about five or six weeks a new system was formed of collecting the revenue from the people in kind?

I was not aware of it.

1699. You have not read the Blue Book upon that subject?

I have not; I am aware of very little that has occurred in the Punjaub since I left it.

1700. You are not aware that during that period the whole of the lands of the Punjaub were valued by certain gentlemen, who were sent to the place, and who assessed them?

I am not acquainted with the present land revenue system of the Punjaub.

1701. You are not aware that the system of collecting the revenue in kind was abandoned, and that a different system of land revenue was substituted for it?

I was not aware of it; but I should say that we are generally too precipitate in introducing our own new systems, instead of making use of those existing in the country.

1702. Are you not aware that the great difficulty that we experienced arose out of the change that was introduced in the system of Land Revenue, during the period that we were administering the Government, in the name and on the behalf of Runjeet Sing?

No, I am not.

1703. Were not the districts of the Punjaub formerly farmed out?

Yes; and a great portion of them were in large farms; one chief had a farm of 13 lacs of rupees.

1704. Cashmere, for instance, was farmed out?

Yes, at one period.

1705. Did not that yield about 24 lacs?

It never yielded more than 16, in the time of my inquiries; it yielded the Mahomedan authorities 1,000,000 *l.* a year, such was their excellent administration: it was a Mahomedan population.

1706. How was the quota fixed that the landed proprietors had to pay, when the rent was paid in kind, before we had the country?

They have several systems; one is, that of direct partition of the grain, when winnowed, between the tax-collector and the cultivator, divided into three portions.

1707. Three equal portions?

That depends on the character of the assessment of the land-tax, sometimes imposed heavily, sometimes easily. When the corn is in three portions, one is for the village institutions, which provide everything requisite for the convenience of a village community, such as schools, handicrafts, watchmen, guides, and so on; another portion goes to the landlord; the other remains to the zemindars or cultivators, as the case may be. Under their systems, zemindars undertake some police duties which the British Government, on obtaining possession of a village, imposes on its own paid servants. All such advantages of native municipal institutions are much disregarded by us.

1708. Is not that a very favourable assessment?

Nothing could be better.

1709. It is more favourable than the usual assessment under the Sikhs?
The Sikhs treated their cultivators in different ways. For instance, in the case of a Mahomedan village, they had little mercy on them; but if it was a community of Jats or Jat Sikhs, then the assessment was lighter upon them.

1710. Part of the Sikh territory was very highly cultivated?
Yes; it is fertile, and the Sikh is as good a ploughman as he is a swordsman; there are no better cultivators in the East.

1711. Has not the extinction of the feudal sovereignty, from the estates having been confiscated in consequence of their insurrection and resistance to us, changed very materially the whole character of the country, and made it a very difficult thing to determine what is the best mode of governing it?
Yes.

1712. The old system being done away, it is necessary to introduce a new system?
I presume that we have introduced our system of police and our fiscal system, but I have not heard any particulars.

1713. You have spoken with great admiration of the Mahomedan system of government; is that the same system as was followed out in Bengal?
Yes; it was preserved later in the Upper Provinces of India, where the decline of the empire was longer delayed; the more remote provinces having first thrown off their allegiance.

1714. The revenue appears to have been as high in the earlier time as it is now?
Yes, I should think so; in fact, on looking at the records, it appears clear that it was as high.

1715. Is the Mahomedan system one of usage, or is it written?
It is written.

1716. Are you able to make any comparison between that system and the system which is proposed to be established?
I think, generally speaking, we should do well to advert to the institutions existing in countries which we occupy before we take up the government of those countries; but we are generally exceedingly averse to do so, wherever we acquire territory in India: we pride ourselves so much upon the excellence of our institutions, and treat with such contempt those which we find existing, that it sometimes happens that we overlook what is good, and undertake the trouble and expense of constructing an entirely new and inferior system.

1717. Is there any part of England which exhibits such magnificent fields of wheat as Bundelkund?
I have seen nothing superior to the growth of corn on the irrigated land; and so it is near the Sutlej.

1718. Do not we find, in some parts of India, that the original institutions of the country were supplanted by the Mahomedan conquerors?
In many parts that is so; but in the villages they continued to make partial use of those institutions, especially in matters of police. They did not despise the advantages which the State derived from the intelligence of the landowners; and it was an inseparable condition of the tenure of land, that the landowners should afford willing and prompt assistance to the Executive in various ways.

1719. Is the fertility of the Jallindur principally owing to natural fertility, or to careful irrigation?
For many years past irrigation had not been carried to any extent in the Jallindur; but the land is in itself fertile, and the people are good cultivators.

1720. You stated that it was the practice of the Mahomedan Government to look to the landowner for assistance in all police matters?
Yes.

1721. Was that the case under the Sikh Government?
Yes, very materially; they also availed themselves of what they found existing of village institutions; they made use of them for public purposes: I have spoken of the institutions previously in the time of the Mahomedans, and I

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observed that the Mahomedans maintained those village institutions in a great measure, thereby saving certain expenses to the State, in matters of police, especially.

1722. The system of our Government in India has been to do away with those institutions?

We attempt to upset everything that exists, and introduce servants of our own, paid in hard coin out of the treasury, thereby I think adopting a more costly system, and perhaps not more efficient.

1723. Is any part of the fertility of the Jallindur owing to the periodical inundations of the Sutlej?

Other lesser streams from the hills irrigate it.

1724. The inundations of the Sutlej extend very far on each side?

Yes; but canals have not been drawn from the Sutlej for many years past.

1725. Is there not only very great industry among the natives of India, but great ingenuity in the application of it, especially in the preserving and utilising of every drop of rain which falls for the purpose of fertilising the ground?

In the construction of tanks they go to great expense.

1726. Not only in tanks, but in the irrigation of the fields do they not show great ingenuity?

Yes, they do; in fact, native Governments generally have done more towards irrigating the lands than the British Government has done.

1727. When you speak of the natives of India, of course your remarks must apply in different proportions to different parts of India: take the Sikhs in the Punjaub and the neighbourhood; they have habits of their own totally distinct from the habits of the population within five miles of them; is not that the case?

Yes.

1728. Therefore you cannot predicate anything of the natives of India from the inhabitants of a particular district; what is true of one portion of the population is not true of another portion; they are not all equally industrious or given to the cultivation of the land?

Quite the reverse; all of them are not industrious.

1729. In what part of India under our Government are persons found now who are deficient in the ordinary industry requisite for the cultivation of land?

Speaking generally, I should expect to find it in classes among the Mahomedans; one would not expect to find industry or thrifty habits among them; and there is greater difficulty in dealing with them in the assessment of land revenue; and a greater difficulty, I should say, in entrusting to native officers great discretion in the settlement of the land revenue: some of our European collectors have been supposed to be rather hardened by practice; but they are so rarely, and in a trifling degree compared with the native collector, who from his birth has been taught that the cultivator ought to contribute all he can afford in the shape of land-tax: it is only when our native collectors are enjoined to follow out the discrimination exercised by heads of villages that they are likely to develop and encourage the industrious habits of some classes, and to control the carelessness of others. Some capital then accumulates in the hands of the former, who, if they are Hindoos, lay it out, probably, in sinking a well or some other useful work.

1730. With regard to Hindoos, would not the Brahmins manage somehow or other to get hold of the money?

They would receive a proportion of it.

1731. The Brahmins have a lighter assessment, in consequence of their not working themselves?

Yes.

1732. Under which of the heads which you have spoken of would the Sikhs come?

Under the head of industrious and thrifty cultivators.

1733. When Ferozpoor came under our Government, was it left entirely to the

the natives to make such improvements as were necessary, or did you give general instructions or assistance to enable them to do so?

I superintended some improvements: the people were very poor at the time.

1734. Have not the improvements been most wonderful at Ferozpoor since it came into our possession?

Pains were taken to settle merchants in the towns, as well as to mend the condition of the villagers.

1735. As regards the cultivation of the land, very great improvement took place?

The assessment was lighter than it had been under the former Government, and some little attention was paid to sinking wells.

1736. The country is naturally very poor about Ludeeana?

It is arid and sandy; nevertheless, if irrigated, it is capable of producing luxuriant corn and sugar crops.

1737. Are the wells that are necessary for irrigation sunk and maintained at the expense of the Government?

Generally speaking, in what are called the Regulation Provinces, it would be necessary to obtain not only the sanction but the money of Government to sink a well; but where discretion is allowed to the district officer, he can generally induce a native who has a little capital to sink a well. I have known instances in which such discretion has been given, and with the best effect, to the local collector or other officer. If a grant is given of an acre or two, free of the land-tax, in consideration of the individual sinking a well, any Hindoo who has money would rather lay it out in such a manner than in any other.

1738. When the well is sunk by the individual, does he maintain it?

Yes; he takes a pride in maintaining it, because his name goes down to posterity as a public benefactor, whether sunk upon his own land or on a thoroughfare. The native Government at one time did a great deal in that way towards the irrigation of land in India.

1739. In what way was profit derived from the expenditure of sinking a well?

It enhances the value of the land under assessment. Supposing the Government re-values the land the next year, that land is capable of bearing double the assessment that it did before, and the proprietor will readily pay double or treble the assessment that he before paid.

1740. But independently of any view to profit, is it not considered a virtuous act to sink a well?

No doubt it is.

1741. You are not a member of the Court of Directors?

No, I am not.

1742. Have you ever been a candidate for that office?

I have not.

1743. Is there anything in the constitution of the Court of Directors which has prevented you from offering yourself as a candidate for that office?

I have rather thought that the exercise of the patronage would be disagreeable on account of its being so insufficient to answer the innumerable claims that I might consider I ought, on public grounds, to attend to, if I had the means.

1744. But do you think there is anything objectionable in the mode in which the Court of Directors are appointed?

The Directors are appointed by the proprietory body, who, I take it for granted, exercise their judgment in the best way they can for the benefit of their stock.

1745. But, in your judgment, is there anything objectionable in the canvass for the office?

I have not, at any time, contemplated entering upon a canvass with a view to be a member of the Court of Directors; and, for my own part, I ought to state that I was given to understand, but not authoritatively, that had I proposed to

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be a member, I should be supported to a degree to enable me to take my seat without trouble, on the first vacancy.

1746. But you had no particular wish to fill the situation?
No.

1747. Your position would have been particularly painful in consequence of your long service in India having made you acquainted with a great many persons there in addition to friends here, who would have given you their support, and you would have had to consider the claims or the wishes of all those parties?
I meant that, after long acquaintance with India, there were so many persons who, I consider, have claims on such patronage, from my knowledge of their public services, and that all my patronage could go so short a way towards satisfying deserving claims.

1748. Does that objection which you felt to hold a seat in the Court of Directors equally apply to other servants of the Company holding responsible situations in India?
It must be, I presume, in some degree painful to any one to receive a vast number of applications which he thinks are founded upon good grounds, but which he cannot accede to, and thus the exercise of the patronage must also, in discriminating and refusing, occupy a large portion of the time of a man, desiring, perhaps, to devote himself in England to the study of public questions regarding India.

1749. Is there any other mode of selecting persons to be members of the Court of Directors which, in your opinion, would be preferable to the present mode?
I conceive that means might be taken of introducing into the Court of Directors other members than those now elected to this extent. On men of distinction returning from India, with their minds freshly impressed with matters that have been pressed upon their attention, they might with good effect be elected to that body on a vacancy, so as to be ready to enter on the consideration of such measures before their minds were occupied with matters which have, after a time, more or less absorbed every man's attention, as being nearer to him than the concerns of India.

1750. Would you recommend that they should be elected by the present constituency, or by somebody else?
I should say that they might be elected by the authorities regulating the affairs of India at home.

1751. Would you have them elected by the Board of Control, or by the Court of Directors?
Without well knowing how those two Boards act together, I should imagine that it might be regulated by the two combined.

1752. Do you mean that the appointment should be made by the Minister of the Government or by the Court of Directors; to whom would you give the power?
Supposing the case of a person so qualified coming home, I should think his past career might be reviewed thoroughly by either body, and, therefore, I should say that the nomination should be by the superior Board, and the approval by the other, so as to combine the opinions of both. In the case of such a man, I would suggest that his age should be limited, say not above 50: a man returning from the tropics at 60 years of age is not the man of 60 years of age in England; and fixing the limit at 50 years of age would act as an inducement to men to return to this country with some energy remaining. I would recommend that they should exercise no patronage.

1753. You think it desirable that a person so elected should not exercise any patronage?
I conceive so.

1754. Might not all the objects which you contemplate be effected, if it were desirable to effect them, by again resorting to a practice now in disuse, that of nominating unpaid Commissioners of the India Board, whom the first Commissioner of the India Board might, if he desired, consult?

You

You could scarcely expect a man from India, who had worked hard for 25 or 30 years there, to take up another hard-working appointment in England without any salary.

1755. You have stated that it is desirable that a person so elected coming back from India should exercise no patronage: is it your opinion that the exercise of patronage is an objection to the employment of the old servants of the Company in the Court of Directors, as leading them to an undue exercise of their patronage in consequence of their former acquaintances?

I have heard complaints that the patronage of appointments in India is limited to Indian cliques; and I have heard it, on the other hand, alleged as an intolerable grievance, that men are admitted to the service of India not in any way connected with it; so that it is rather difficult to judge, from hearsay, how the patronage is really exercised; but looking to the services in that country, and looking to the list of civilians on running your finger down the officers of any battalion in the service, I think it will be found that there is a fair fusion of nominations from all parties of that class, than which no class in England is more capable of liberally educating their sons, or more certain to send them forth with honourable principles; I see, therefore, no objection, on that score, to their exercise of the patronage: the other objection that I alluded to was that of its absorbing a great amount of time.

1756. You have stated that there is a sufficient infusion in the military appointments; is it your opinion that there is a sufficient infusion also in the civil appointments?

Yes; it is some years since I looked through the list, but I recollect doing so for that purpose, and such was the impression it left on my mind; of course I knew the Indian names for the most part, and remarked those that were new in India.

1757. Is it your opinion that the present exercise of the patronage is satisfactory?

Certainly, as far as regards the results shown in the civil and military services in India.

1758. Supposing such a mixed constitution of the Court as you propose, and that you were to remove the patronage from those who were selected, that would leave the patronage in the hands of those who were elected?

Yes; and I am supposing a far greater preponderance of those elected, as now, than of officers returning from India to be admitted to the particular privilege; these would be exceptions.

1759. You have stated that it is desirable that a man should come back from India while his faculties are still in vigorous exercise; and you consider that such an appointment on the Court as you have suggested would give him an inducement to come home earlier than he otherwise would; do you think it desirable that the civil servants of the Company should for the future look to returning to England as their home?

The great bar to improvement in many ways in India is, that we are so temporarily there; and that even those who remain there for the longest periods are constantly being removed and shifted; thus we do not exercise that influence over the minds of the natives which functionaries in similar positions under our predecessors did; and therefore it is, that whatever hope we may have of improving the natives, to aid us in the government of India, we should not be too sanguine of obtaining from them the same devotion to our service that the Governments preceding us secured. For instance, the Mahomedan Government was well and faithfully served by Hindoos in the highest positions; a Hindoo would be employed by the Emperor of Delhi in the position in which the Lieutenant-governor of Agra stands to the Governor-general; and at the Court of Delhi the Government would feel the same confidence in that man's loyalty and devotion as the Governor-general of India would feel in the highest officer selected by himself, after years of experience of the performance of his duties; but this would lead to a comparison of the whole system of their government, compared with ours. Their system of rewards and punishments was totally different from ours, and it was such as we never can attempt to carry out; but added to that, there was also the circumstance, that the highest officers, whether

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from a distant province of India, from Persia, or elsewhere, took up their positions with their establishments in the country, making it the country of their adoption; spending all their large receipts on the spot, exporting nothing; withdrawing no coin from the country; everything was circulating there, largely benefiting the people of all classes around them, and winning their attachment to a degree which it cannot be expected from Europeans, whose position is so widely different.

1760. You make that as an answer applying to the service generally; but your former observation, with respect to inducing persons to come home earlier than they otherwise would do, with a view to being appointed on the Court, applied only to particular individuals?

Yes; to individuals qualified for a specific duty, after a certain period of service.

1761. Do you think that the evil of a temporary residence of public servants in India would be at all obviated by doing away with the present system of giving retiring pensions, after a period of 20 years' residence in India?

I think our system of civilization and of segregation, if I may use the word, from the Asiatics would not, under any circumstances, induce Englishmen to turn their minds to remaining in Asia; other Europeans, Frenchmen, for instance, would do otherwise.

1762. Would not the throwing the retiring pensions on to a more distant period mitigate the evil of temporary residence in India, to which you have referred?

Yes; but on the other hand, there would then be an increased difficulty in getting rid of servants who are worn out, and whom the controlling authorities are desirous of telling off, in order to allow younger men to come on; unless they are provided for out of the service, there is no inducement which can be held out to them to remain, except by a grant of land and other privileges, which are totally opposed to our system.

1763. If Europeans, holding high civil or military positions in India, were induced to domiciliate themselves in India, and to bring up their sons there, and to introduce them into the civil and military services, and thus obtain the influence which the Mahomedans possessed over the people of India, would not that be practically establishing a system of colonization which would be utterly inconsistent with the hold of this country upon India?

No doubt, in the course of time, India might so share the fate of all other colonies; but, in the case of Britons in India, the deterioration of race would be such, that it is more likely they would become totally unfit for any such purpose: in the case of Mahomedans supplied from Persia and those temperate climates, it was the reverse; the very infusion of new but congenial blood from Persia and Cabul improved the race.

1764. There are, in fact, physical difficulties which would prevent the colonization of India by Europeans, unless they were established in the hilly districts along the line of the Himalayas?

Yes; only in those districts would it be possible for three generations to keep up the English race without deterioration, if even these.

1765. Are you aware how the higher appointments from England are made, viz., by the Court of Directors, with the approbation of the Board of Control?

Yes; though not intimately acquainted with it.

1766. Are you aware of any objection to the mode of those appointments?

No; I have not practically seen any objection.

1767. Are you aware that the Court of Directors have the power of recalling or dismissing from their service any servant civil or military?

Yes; I always have assumed that the Court have that power, without knowing whether, legally, they have such power or not.

1768. And the Crown has a similar power?

Yes; I take it for granted that it has.

1769. Do you think that that provision of the law arises from the necessity of

of the Governor-general possessing the confidence both of the Crown and of the Directors of the Company?

I think so.

1770. Is it your opinion that the Governor-general ought to possess the confidence of both?

I consider so.

1771. If the nomination and appointment of the Governor-general necessarily requires that he should possess the confidence both of the Court of Directors and that of the Crown, is it your opinion that each, separately, should have the power of recall?

I think that there should be the power of recall—whether separately or not, is another question; I take it for granted, that the power of recall rests with the Crown itself; and with regard to the Court of Directors, I should think, if that body is to exist, it ought, in order to render it efficient, to have also the power of recalling the Governor-general.

1772. Ought the Court of Directors to have that power separately, or jointly with the consent of the Crown?

I think the Court of Directors ought itself to have that power; because, in looking at the Government of India, the Court of Directors is the only body well known there, and to them is ascribed the credit of any good measures for the administration of India; and on the other hand, it is the authority which is blamed for everything which is considered unsuitable to the institutions or the Government of India.

1773. Have the Court of Directors any real powers in India, except in the nomination and recall of the superior officers?

I am not aware of the precise circumstances under which instructions are issued from England; but in India, it is considered that measures directed from England to be adopted in India generally emanate from the Court of Directors, and that belief comprises a great amount of power.

1774. When you say that it is considered in India that measures generally emanate from the Court of Directors, do you mean that that is considered by the people of India, or by the servants of the Company?

The natives never look beyond the Governor-general himself, and they never desire to look to any authority in England. I speak generally of the servants in the employment of the Company; they knowing at the same time, that the Board of Control exercise a control in all matters over the administration of India.

1775. Is not that control which is exercised by the Board of Control a complete prevention of the exercise of any authority by the Court of Directors?

I apprehend that, practically, it is not; but it may happen, I should suppose, that the power vested in the Crown might be tantamount to superseding everything done by the Court.

1776. Inasmuch as the Board of Control have the power of directing measures in India of which the Court of Directors may disapprove, it might so happen that the Board might order the Court of Directors to carry into effect a measure of which the Court of Directors entirely disapproved?

Yes.

1777. If the Crown directed a measure to be carried out, and the Court of Directors disapproved of it, they would have the power of recalling the Governor-general, so that to please one party he must execute the measure, and to please the other party he must abstain from executing it?

It is an objection to any system of double authority, that when exercised without accord, it must cause some embarrassment, and require delicacy in handling. But with regard to an empire of the extent of India, it appears to me to be hopeless to expect to adapt any mode of administration that can be altogether free from a possibility of encountering embarrassment in some parts of its machinery, and even certain difficulties, at times, impeding its action.

1778. Is not the power of recall in the hands of the Court of Directors the means of reconciling the difficulty which has been stated in the last question; viz., the possibility of orders being sent to India by the Board of Control of

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which the Directors disapprove, which, notwithstanding such disapproval, the Court of Directors would be obliged to carry into execution; does not the possession by the Court of Directors of the power of recall render it necessary that there should be a concurrence between the Government at home and the Court of Directors as to the policy to be proceeded upon?

That would be the desirable consequence; but it seems to me that the essential point is, that the Court of Directors, supposing it to comprise a proportion of men well versed in affairs of India, and acquainted with the feelings and prejudices of the people, should be enabled to exercise such a power as that, if they thought the Government of India was endangered by the measures about to be pursued by the Governor-general, they should have in their hands the means of averting such great danger.

1779. If the power exists, as put in the last question, the Government in England would be obliged to give up certain measures which they would wish the Governor-general to carry out, because they knew that the Court of Directors disapproved of them, and might recall the Governor-general; and does not that place the Government of India in the hands of the Court of Directors, and not in the hands of the Crown?

It places the Government of India, as regards that particular measure, in the hands of the Court of Directors.

1780. Do you think it is for the honour of the Crown that, supposing the Governor-general to be carrying on a successful war under the orders of the Crown, the natives of India should see him suddenly superseded from his authority?

That certainly would not be conducive to the dignity of the Crown.

1781. Would it not lead them to inquire, whether there was not a greater authority in England than the Crown itself?

I do not think, as respects the natives of India, that inquiry would be made; though, short of that, it would be attended with great objection. But as I said before, how to escape from certain difficulties, and at the same time to secure the Government of possessions so distant and of such extent as India, I do not myself see. That is a difficulty, no doubt; but it is one which could very seldom be practically felt; but even then I can conceive circumstances under which, for the safety of the Indian Empire, it might be desirable that that power might be exercised by those best understanding India, and the feelings and prejudices of the people.

1782. Political orders sent out to India go through the Secret Committee, but the Secret Committee is bound in law to send out such directions as the Board of Control orders them to send out. Therefore, supposing the Board of Control to force upon the Secret Committee to send out certain orders to the Governor-general, which he should put into execution, those orders being distasteful to the Court of Directors, might they not supersede the Governor-general for executing those orders which they had sent out to him in their own names?

Apparently, in the case described in the question, they might do so; and a collision between the Board of Control and the Court of Directors is very objectionable; but I do not see where is to be found the certain means of preventing the possibility of that, combined with the perfect discharge of their trust, by a body which is in part responsible for the security of India.

1783. Is that the only reason why the Court of Directors should have the power of recall?

Yes; without that, I think they would be powerless on an emergency such as I suppose possible. If they were not empowered to act at such a time, by recalling the Governor-general, I do not see any other mode in which the knowledge they ought to possess of the people and the institutions of India could enable them to adopt measures of precaution.

1784. In fact, if the Board of Control differed from the Court of Directors, you would be inclined to think that the Court of Directors was in the right?

I should not be predisposed to think so; but I can conceive certain circumstances under which a body so constituted as the Court of Directors is or ought to be, partly composed of men who have had some experience in India, would be best

best able to judge of particular measures, in relation to what was best for India.

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1785. Is it not your opinion that the system should continue as at present; that the law was framed with the intention of securing the concurrence of the two parties interested in the Government of India, namely, the Board of Control, and the Court of Directors; if you were to take from the Court of Directors the power of recall, which they at present have, would there be any means of securing the concurrence of the two parties; would it not give the entire Government of India to the Board of Control?

It would.

1786. Reverting to the case of the recall of the Governor-general in the time of war, supposing that to take place, would it necessarily affect the execution of the orders which might have been sent out respecting the conduct of the war; would not those orders be equally binding upon the authority which succeeded that Governor-general?

It might depend very much upon the instructions issued by the departing Governor-general.

1787. The orders of the Court of Directors which were sanctioned by the Board of Control would not be superseded by the appointment of a new Governor-general; the circumstance of the Governor-general being recalled would not affect the orders which had been issued by the Court of Directors?

No.

1788. If the Governor-general had been recalled for executing certain orders sent out in the name of the Court of Directors, but in fact given by the Government of the country through the Board of Control, though those orders would remain still in vigour, would not the circumstance of the result of the Governor-general for executing those orders in all probability very materially affect their execution by the party who temporarily succeeded to the Government?

I do not think it would in the hands of any one succeeding to the authority, and resolving to execute them.

1789. Do you think that the member of Council succeeding temporarily to the administration of the Government, after the recall of the Governor-general, for the execution of certain measures which he was ordered to execute, would continue to execute them precisely in the same spirit in which they were executed by the Governor-general, who was recalled for so executing them?

The member of Council who succeeded the Governor-general, who had been recalled for projecting or executing certain measures, would, I suppose, excepting for sufficient reasons, abstain from prosecuting those measures.

1790. On the supposition that the recall of the Governor-general under those circumstances and for that reason would practically lead to the reversal of the policy upon which he had been acting?

I should consider so.

1791. But if there was no reversal of the original instructions, must they not be carried out?

I was supposing that no recall would take place without a reversal of instructions; certainly it might happen that there would be no reversal of instructions, though it had not occurred to me that such was likely to happen.

1792. We began by assuming that the instructions sent out by the Secret Committee were not in accordance with the views of the Court of Directors, and that upon the Governor-general putting into execution those instructions, the Court of Directors used the power which they had of recalling him; if that were to take place, would it be practically tantamount to the reversal of the instructions which the Secret Committee had sent out without the approval of the Court of Directors?

That would depend very much upon the judgment of the person occupying the position of Governor-general; he would then find himself in such a position that he would be compelled to exercise his own judgment. If in the exercise of his judgment he thought what the Governor-general had projected or had carried into execution was right, he would, I should think, even in the face of that recall prosecute the same measures; if, on the other hand, he perceived

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that an error had been committed, or was likely to have been committed, by the Governor-general, he would then adopt the measures which he might suppose to be best for the interests of India and of his country, and take the responsibility upon himself.

1793. Might it not be perfectly possible, in the case supposed of a war commenced, and the policy which led to that war being disapproved of by the Court of Directors, and the Governor-general being therefore recalled by them, that fresh instructions might be sent out to his successor to carry on that war with vigour, which instructions would be as well executed by the successor as they could have been by the Governor-general, under whom the war was commenced?

It is quite possible.

1794. So that necessarily the recall of the Governor-general would not impair the vigour or power of the India Government?

I think not.

1795. That concurrence between the authorities at home, supposing it to exist, we understand you to state not to be generally known to the services in India; the line of policy is generally supposed by them to be regulated by the Court of Directors; and we understand you also to say, that you conceive that any change which would at all shake the confidence in the undivided authority at home would be injurious to the administration of affairs in India?

Yes; authorities in India do not so much consider how the home administration with regard to India is managed; their object, as their duty, is to carry out the orders which they receive, and not to comment upon the mode in which, by unity of purpose or otherwise, such instructions are determined on in England.

1796. The person who would succeed to the Government of India by law, upon the recall of the Governor-general, would of course be bound by the same instructions which had been given to the Governor-general before his recall?

Yes, in point of law, until those orders were cancelled.

1797. Therefore the recall would not necessarily put a stop to the execution of those orders?

Not necessarily.

1798. If the Governor-general was recalled on account of carrying out orders which were disapproved of by the Court, would not they in that case be under the necessity of recalling also the person who succeeded?

Yes, unless he adopted their views.

1799. He could not adopt their views in the supposed case, because he would act under the instructions which he had received from the Secret Committee?

He ought not, in so peculiar aposition, to hesitate to take on himself the risk of disregarding instructions, and acting as appeared to him to be best for the public interests; submitting fully his reasons for so doing.

1800. Are you aware that, by the 84th clause in the last India Act, the Crown may remove any officer of the East India Company in India?

I have taken it for granted that the Crown might exercise that power, and there is, I believe, a clause in the Act to that effect.

1801. Are you not aware that the clause immediately following the clause giving that power, namely, the 85th clause, makes it a proviso that the Company should also have the power of removing any of their servants?

Yes.

1802. Is it not the case that that power of removal is in fact the only substantial power that is left to the East India Company?

I have said that it is generally supposed that they exercise considerable power in issuing instructions for the administration generally of India in all departments.

1803. But of course you are aware that, in fact, the Government of India is entirely in the hands of the Minister of the Crown appointed for that purpose?

Yes, I am aware that the Crown possesses the control; but I should not conceive that any Board would undertake all the details of the administration of such an empire

empire as India, if they could devolve any portion of them upon another competent and appointed body; and, considering the materials of which the Court of Directors is framed, I presume that measures regarding the general administration of the country devolved upon them, and that instructions issued from them.

1804. In point of fact, the actual state of the law and the practical working of the administration of India are very little known in India, are they not?

It is known that the Board of Control has a control over the Government of India and the Court of Directors; but as to the adjustment of the measures between the two authorities here, few persons in India are intimately acquainted with or feel concerned in the working of that.

1805. If you were to remove from the Court of Directors a power which they are now known to possess, would not that very much weaken the opinion now prevailing in India, that the affairs of the country are directed by them?

Yes.

1806. And it would affect their influence over their servants?

Yes.

1807. Is it not practically true, that although the Board of Control has by law, to a certain extent, and in practice, on great political questions, a control over the Government of India, the opinion of the Court of Directors on all practical matters, on which men who have long lived in India are better authorities than those who have lived all their lives in England, is acted upon more than the opinion of the Board of Control?

I have supposed that to be the case.

1808. You are, of course, aware that the Government of India is administered under instructions from the home authorities?

Yes.

1809. And you are also aware, that those instructions are altogether, without any exception, submitted to the control of that body which is usually called the Board of Control?

Yes.

1810. And that if any despatch which the Court of Directors propose to send to the Governor-general of India is not such as happens to meet the views and coincide with the opinions of the President of the Board of Control, the President of the Board of Control may order a new despatch to be written, entirely conformable to his views, and may direct the Court to send the despatch out to India?

I am aware that the President of the Board of Control can legally do that.

1811. That being the case, in fact, is not the Government of India in the hands, legally, of the Commissioners for the Affairs of India, as represented by the President of the Board of Control?

Certainly, legally, it is in their hands.

1812. That being the case, is not the power of recall the only substantial power which is left to the Court of Directors?

It may be the only power that cannot be denied to them by the Board of Control; but I have supposed that they have, in other respects, a very substantial power, they being, in India, generally supposed to be the body from whom emanate the instructions to India.

1813. Is it desirable to give to anybody the substantial power of thwarting measures which another body has the legal authority to order?

That must be liable to lead to occasional embarrassment.

1814. Does it not appear reasonable, that as the appointment of certain officers take place conjointly, that is to say, by the authority of the Court and the Board, the power of recalling those officers should be vested in a joint authority also, that is to say, that neither one nor the other should be able separately to recall?

It would be very desirable if there could be prompt unanimity on such a point between the two bodies.

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1815. Is it not, in all cases, in India, most important to maintain the authority and position of the Governor-general?
It is most important; there is nothing more important than that.

1816. When he has been once selected for that high appointment by the concurrence of the Crown and the Court of Directors, might it not be the most convenient arrangement that he should not be recalled, otherwise than by their concurrence, with a view to ensure a more permanent possession of power, and thereby attain the respect of the natives of India?
If, in the circumstances supposed, there was a possibility of ensuring unanimity at once on such a question, it would be far preferable to the power being vested in a single body.

1817. You have been asked in reference to the control exercised over despatches by the Board of Control; does it come within your knowledge, that in point of fact those despatches originate with the Court of Directors; and that, therefore, in the daily concerns of such an empire as India, necessarily supposing the Board and the Court to act well together, the Court do exercise a very considerable influence over the practical administration of the Government?
So I should consider.

1818. If the concurrence of those two authorities is necessary for the appointment of the Governor-general, does it not follow as a natural consequence that a joint confidence is necessary for the continuance of that officer?
If that unanimity could be by any means promptly arrived at in the supposed case of a recall, such concurrence would be preferable.

1819. Would not the Governor-general who felt that he had lost the confidence of the Court of Directors be very much embarrassed in the satisfactory discharge of the duties with which he was entrusted by those two authorities?
That is the kind of possible embarrassment which I before alluded to as being almost inseparable from the existence of two bodies.

1820. Does not the embarrassment of the Governor-general arise from the power of recall; he would not be in the slightest degree incapable of administering the Government satisfactorily, even without the confidence of the Court of Directors, if he knew that he was carrying into effect the measures of the Government, and that the Court of Directors had not the power of recalling him; but he feels that he may be stopped in the execution of those measures by the exercise of that power?
It is solely in that respect that embarrassment can be felt by the Governor-general.

1821. You have had the clause of the Act of Parliament read to you, which gives the power to the Crown to recall in all cases, guarded by the proviso, that a similar power shall exist in the hands of the Court of Directors; does it appear to you, that it is desirable that that proviso should remain, giving the power of recall to the Court of Directors without the consent of the Crown?
I think I have already answered that question, to the effect that I think it desirable.

1822. If the Court of Directors had not the power to recall the Governor-general without the consent of the Crown, would not the effect be to deprive the Court of any authority whatever?
Yes.

1823. If the Court of Directors should still retain the power of recalling the Governor-general, is it not absolutely essential that no intimation whatever should go forth previously to the recall, that any intention exists on their part of exercising that authority?
Yes, it is most desirable.

1824. Is it not absolutely essential?
It is essential to the efficiency of the Government that is to follow.

1825. Should you not consider, under those circumstances, that it was binding upon every member of the Court of Directors, in duty and in honour, not to say one word, or write one word, which could lead any man to suppose that any such measure was in contemplation?

I think

I think that a regard for the efficiency of the departments in India alone should induce them not to divulge such recall.

1826. If negotiations happened to be in progress between the Governor-general of India and any native States at the time, would it not tend materially to thwart the Government; if it were supposed that there was any probability that the Governor-general would be recalled, might it not lead to resistance, where otherwise pacific arrangements might take place?

Certainly; if it was supposed that such recall was impending, it would decidedly damage the influence of the Governor-general very much.

1827. Are you aware that when the Government of the day, represented by the President of the Board of Control, contemplates any important political operations, it is not the custom for the President of the Board of Control to consult the Court of Directors, but that he merely communicates his intentions to the representatives of the Secret Committee; namely, the Chairs?

I believe that is the case.

1828. So that, in fact, the Government of the day might order the Governor-general to do that of which the Court of Directors had no cognizance?

I believe under the present law that is the case.

1829. Then does it not appear to you that the Governor-general, acting under such orders, those orders being the orders of the Home Government, and not of the Court of Directors, it is a matter of great injustice to him to remove him from his office for obeying those which were in fact the orders of his superior, namely, the Government under which he acted?

It is calculated to place him in that embarrassing position, and so far is objectionable; but as I commenced by saying, I do not see any escape from it with safety.

1830. If the President of the Board of Control does not consult the Court of Directors upon matters of that great importance to which the question has referred, is it not a hardship that, as the Court of Directors are not consulted, they should afterwards interfere to inflict a certain degree of punishment upon a great functionary who has not acted under their orders at all?

It might be a hardship, and no doubt might in the minds of many be an objection, to undertaking such duties as those which devolve upon the Governor-general of India; but under the present system of two Boards in England governing India, I do not see how you are to deny the power of recall to that body, which is held responsible for the security of India by the public in India, and by the public in England, and to whom is ascribed all the blame and all the credit of bad or good measures.

1831. Could the Court of Directors properly exercise the power of recalling the Governor-general for his conduct in any particular transaction without having before them all the correspondence which related to that transaction, which correspondence would be only in the hands of the Secret Committee, from whose hands the Court of Directors have no power whatever to withdraw it?

I cannot suppose that the Court of Directors could have any adequate knowledge of those measures, regarding which they might deem it advisable to recall the Governor-general, unless all the papers relating to those measures were available to them.

1832. The Court of Directors also exercise the power of recall in minor appointments?

Yes, they do.

1833. Is that power of recall usually exercised with judgment?

I do not remember instances of such a recall.

1834. Has it occurred within your knowledge that persons have been dismissed from situations they held in India, and that the Court of Directors have not confirmed their dismissal?

I can remember instances in which the local Governments have dismissed or suspended public servants, and the Court of Directors have ordered them to be reinstated.

1835. Have they usually exercised that power with discretion?

I think the fault has generally been on the side of leniency.

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1836. Has not the suspension generally been pending a reference to the Court of Directors?

Very frequently it has.

1837. On the whole, you believe that the Government of India has been conducted with efficiency?

With great efficiency.

1838. The Committee understand it to be your opinion, that the Court of Directors ought to have the power of recalling the Governor-general independently of the Crown; do you think that they ought to have the power absolutely, without giving any reason, or that it should be under any modification, and under public responsibility?

I think the only reason for vesting such a power in the Court of Directors is, that, as I am supposing, that body contains in it men the most qualified to pronounce upon every important question relating to India, and I think, in the instance of their exercising that power, they should give the fullest reasons.

1839. In your opinion, the public should have an opportunity of knowing the grounds upon which they decide?

Yes.

1840. You suppose the Court to be composed of persons well versed in the affairs of India; do you consider a body elected as the present Directors are, likely to be most fitted to form an opinion upon matters relating to the Government of India?

They are elected by a body of proprietors holding India Stock, and, though I do not know anything regarding their motives myself, I presume that they have the same regard to their own interests, as may be observed in the holders of stock in any other great concern.

1841. What means of knowledge have the proprietors of the interests of India?

I have heard complaints that the proprietors comprise nothing but Indians; and, on the other hand, it is sometimes stated, that there are among them those whose connexion with India is objectionable; but I should suppose that among them there may be many persons having considerable knowledge of India.

1842. You have been asked, with reference to the strict law of the case, whether, practically, the power existing on the part of the India Board, of not only annulling any orders given by the East India Company, but of directing absolutely other instructions and orders to be given, does not virtually vest the Government of India in the India Board; do you consider that such a right, capable of being employed in extreme cases, alters the general impression, that, except in those extreme cases, the Court of Directors is, practically, the governing body of India?

I do not think it alters it.

1843. Therefore, independently of the power upon which you have been examined, as to the recall of the Governor-general, without cause assigned, by the Court of Directors, is not the impression general, and, in your judgment, founded upon experience, that the Court of Directors does, in ordinary cases, exercise a controlling power over the Indian Government?

Certainly.

1844. As Governor of Bombay, did you visit Scinde?

I did.

1845. Did you find that that climate is less unhealthy than it was supposed originally to have been?

On the first occupation of Scinde by the British troops, it was unhealthy, as is generally the case with all new possessions when we take up our first cantonments there; but when I visited it, I found it very much the reverse, dry and salubrious; and I believe it continues so to the present day; there certainly has been no extraordinary degree of sickness there for four or five years past.

1846. Has not Curachee much increased since we first occupied it?

When I was there, it was increased and increasing; I have not heard of it for three years; but I have no doubt it is still more prosperous than it was then.

1847. Have

1847. Have we erected buildings to any considerable extent in Curachee?
Sir Charles Napier planned and carried out a pier to some extent, but that is a costly work, owing to the distance the pier had to be carried out into the sea; it was still to be continued as far as our means would allow when I was there; its present condition I do not know.

1848. When completed, would it be a work of very great value?
Yes; and I think it was already of some service to the shipping.

1849. It was erected for the purpose of enabling troops to land there?
Partly for that purpose, and partly for the purpose of affording a small harbour for the trading craft.

1850. Are barracks erected at Curachee on a very extensive scale?
At the time of my visit to Scinde, barracks were then wanting at Curachee; I recommended that some should be built; whether they were constructed or not, I do not know.

1851. Are there any barracks at Hyderabad?
Yes.

1852. Are they very large?
Yes, the finest I ever saw.

1853. In Scinde, the lines for the native troops are built at the expense of the Government?
Yes, they were so, under peculiar circumstances.

1854. Are they very superior to those which the native troops build for themselves in other parts of the country, and much more conducive to health?
Yes, superior.

1855. Are the hospitals extremely well constructed?
At Hyderabad they are very good indeed.

1856. Most important works, therefore, have been carried into execution by us since our occupation of Scinde?
I am unacquainted with the affairs of Scinde for the last three years; I conclude that some useful public works may have been undertaken; want of funds would deter the authorities from projecting anything very costly at present.

1857. Was the water communication in the different districts between Curachee and the Indus open when you were there, and available for vessels of any burden?
No direct water communication was then in use, but a vessel was then employed in surveying the mouths of the river, with a view to open out a channel nearer to Curachee for boats of considerable size.

1858. Does it communicate with the sea, or only to within a short distance of Curachee?
It communicates with the sea by several mouths, more or less distant from Curachee.

1859. Would it be possible for a vessel, without unloading, to go from Bombay up the Indus, and by that water communication?
Only for small craft at present.

1860. The large craft must use the different branches of the Indus?
There are many branches; at that time no channel was in use capable of admitting into the river ships drawing many feet of water.

1861. What works of irrigation have been carried into effect?
I have not heard what has been done in that respect since I was there; but much had previously been done, under Sir Charles Napier's directions, by means of establishments maintained for that special purpose.

1862. Is it not a country extensively improvable by means of canals?
It is.

1863. Is not that the case with all countries bordering upon a river which overflows its banks, as the Indus does?
It is.

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1864. Are there any traces of former canals excavated by the former Governments of India?

I am not aware of any on a great scale.

1865. Do you consider the navigation of the Indus better than that of the Ganges below Allahabad?

Better, owing to its being less obstructed by sand-banks.

1866. Do the Indus steamers draw less water than those of the Ganges?

I do not think there are yet any steamers there of a sufficiently small draught of water; 2 or 2½ feet was the draught of river steamers in use when I was there; I was applying for those of a less draught of water, but I am not certain whether they have yet been introduced.

1867. Is trade increasing in the country?

I am not aware that it is.

1868. Do you recollect the comparative cost of bringing European goods to Ferozpore, at the end of the year 1842, by the Indus and by the Ganges?

I cannot recall the difference in the amounts, but it was very much in favour of the Indus.

1869. Is Scinde divided, as it was originally, into three collectorates?

I cannot say with certainty.

1870. Was it when you were there?

Yes. I think now there are two collectorates and four sub-collectorates; but I speak with some doubt.

1871. How is the internal administration carried on; is it mainly by natives, or by Europeans generally?

I am not aware whether any changes have been introduced since I was there; but in the instructions I left, I enjoined the local officers to maintain things very much as they found them, the police administration being very much entrusted to the hands of heads of villages. That was the system which Sir Charles Napier followed.

1872. You think that that system was the best calculated for the country?

Yes; I think it is the best, even in a more advanced stage; it saves the public treasury, and enables the State to avail itself of the men of the most influence and intelligence in the country.

1873. What appeared to you to be the prospects of the revenue; did it appear likely to increase, unless through extensive irrigation?

Judging of it from analogy, and comparing it with countries something similar, which I have seen in other parts of Asia besides India, I do not see the prospect of its being rendered productive without irrigation and the sinking of wells.

1874. What was the amount of the revenue?

It has fluctuated very much.

1875. What relation did it bear to the total expenditure for the maintenance of the civil government of the country?

I never had the administration of Scinde in my hands until during the last two or three months of my government of Bombay; on a comparison of the expenditure and income, the income then about sufficed for the internal administration, exclusive of military and commissariat expenditure.

1876. The expense of the civil administration included in it the expenses of police?

Yes.

1877. Was not the police particularly efficient?

I thought it very efficient.

1878. It had a more military character than in other parts of India?

Yes; and I think it is so still: the population is scanty in Scinde; that is in favour of an efficient police; but the police itself was efficient: Sir Charles Napier had recourse also to the sort of police which I think I mentioned before; he availed himself of institutions he found existing in the country.

1879. In

1879. In point of fact, there have been no outbreaks whatever in the country since July 1843; there has been no resistance to an army?

No; there have been one or two sudden incursions of marauders from the hills, on the border, but no outbreaks within the country.

1880. What appeared to you to be the disposition of the population?

I have no reason to think that they were disaffected; but our dominion was so recent under them, that it would be difficult to say what their feelings were upon that subject.

1881. Are you aware that there have been somewhat extensive immigrations into Scinde from the neighbouring districts?

I have not heard of it.

1882. Are you aware that previously to our occupation of Scinde, the opium was carried from Malwa, through Scinde, and there embarked for Damaun and Diu, and thence carried to China, competing therefore with our opium sent from Bengal?

Yes, I believe it was.

1883. Can you recollect the amount of revenue derived from opium passes previously to our occupation of Scinde?

I cannot state with any accuracy the increase; I know it had increased a few years ago; I rather think it has now decreased, but from causes relating to the difference of manufacture of the Bengal opium, which renders it preferable for the China market; I have heard that there is a decrease in Malwa opium, after having increased considerably, to an amount of something short of 1,000,000 *l.*

1884. Formerly, the revenue derived from opium passes, which were first established by Sir John Malcolm, was very inconsiderable, was it not, not amounting to more than 200,000 *l.*?

It was about a third of the present amount.

1885. The last return shows a receipt of more than 70 lacs?

Seventy lacs was about the amount when I was last informed about it, which was two or three years ago.

1886. Do you think that that increase of the revenue from opium passes is mainly attributable to the circumstance of the old course of the trade through Scinde being entirely closed by our occupation of it?

Certainly; it is partly owing to that; but the Government of India, desiring to diminish the supply of Malwa opium, in order to increase in the China market the demand for that from Bahar, which is British territory, the tax on the former in the shape of a pass, which was formerly only 10 *l.* or 12 *l.*, has, I believe, been raised to 30 *l.* or 40 *l.* per chest.

1887. Is it not in consequence of the facilities afforded, by our occupation of Scinde, to the prevention of the trade through Scinde in opium that we have been enabled to increase the duty upon the passes?

Certainly; any increase in the duty, till of late years, would have driven the trade into the hands of smugglers, and therefore it was not attempted.

1888. Was not the increased price of Malwa opium occasioned by our forcing the whole of that trade through our passes, and did not that tend to increase the price of opium in the general market of China?

Opium can be so amply supplied from Bengal, that I do not think it has that effect.

1889. Would not the competition of the cheaper opium sent through Scinde to China, with the Bengal opium sent to China, have a tendency to diminish the price of opium in the general markets of China?

I am not aware that it has been so since the Government of India has been diminishing the consumption of Malwa opium, by the high charge imposed on it for passes.

1890. The Government of India had no power over the opium sent through Scinde to Damaun and Diu, and thence to China?

No; not after it was smuggled down to those foreign ports.

1891. That supply must have tended to diminish the price of opium?

Yes, to the extent of a precarious supply, being smugglers.

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1892. That is now cut off, through our occupation of Scinde, and the whole is forced through Bombay?

Yes.

1893. Tending, therefore, to raise the general price of opium in China?

Yes, if the supply of Bahar opium to China is not increased as much as that of Malwa may have been diminished.

1894. Therefore, the increase of revenue from that cause may be fairly set down to the credit of Scinde, from our occupation of that country?

Yes; inasmuch as opium was through that territory smuggled before.

1895. Do you think that, upon the occupation of Scinde, it continued necessary to occupy Deesa as a great military station, and other stations which had formerly formed the frontier boundary?

Deesa is considered a healthy locality for troops: they are in a good position for Europeans; they have a sanatorium, or high land which might be made one, close at hand; it is a desirable cantonment to occupy, independently of any consideration regarding Scinde.

1896. But when the frontier is carried forward to the Indus, is it not a question whether it would not be desirable to get rid of the expense of maintaining troops upon the ancient frontier?

That has been a question, and was in my mind, especially after seeing the superb barracks which are built at Hyderabad, a more advanced position; but I have considered the comparative salubrity of those stations. Scinde is now generally very healthy, but Hyderabad seems destined to be the last in the improvement; and Deesa, if I remember right, proves to be a healthy spot for Europeans.

1897. To what do you attribute the circumstance of places becoming more healthy as they are inhabited by Europeans?

It is difficult to say whether it is owing to the water, or to what cause, but it is generally found that those stations which we first occupy are unhealthy, and after some time that they become less so; that is especially the case with Scinde; and I have remarked it in other positions.

1898. But you are unable to assign any cause for it?

It may be, partly, that after a time we have better accommodation and protection from the influence of the climate, which tend to preserve Europeans from sickness more than at first.

1899. You stated that you had found Scinde more dry than you had expected?

No; I was aware that it was dry; but I did find it healthier than I expected; and the appearance of the Europeans was more healthy than I had supposed it would be.

1900. Has it ever been matter of consideration by you, whether, taking into view the shorter line of communication with the North-Western Provinces, from England by the Indus, and the facilities of navigating the Indus, it might not be expedient to send regiments, in the first instance, from England up the Indus to the North-Western Provinces, and that then they should gradually move down to Calcutta before their return to England; and especially whether it would not be desirable to send recruits to the regiments in the North-Western Provinces, by the line of the Indus instead of by the Ganges?

It would save time, and also be a great saving of the valuable lives of our soldiers.

1901. Would it not be, beyond doubt, advantageous to send all the heavy military stores up the Indus rather than up the Ganges, and from the Ganges by land-carriage to the Sutlej?

Certainly; it would be a vast saving in time and expense, and on that account every means should, I consider, be adopted to open up the navigation of the Indus, and improve our high road of communication between Bombay and the Upper Provinces.

1902. From your perfect knowledge of the country intervening between the Sutlej and the Jumna, do you think it would be possible to re-establish any of the

the ancient canals which are understood to have existed in that district for the purpose of connecting the navigation of the Sutlej and the Jumna, thus enabling us to send European manufactures up the Indus, and then down the streams into the Lower Provinces, instead of up them?

I inspected that myself in some measure, and I believe all sites ever considered by our predecessors, the Mahomedans, to afford them any means of drawing canals from the Sutlej, east towards the Jumna; but I was met by the difficulties of the levels; and when I came to inquire of landholders, I found that they had been deterred from the prosecution of such works by meeting with difficulties of that kind, besides an insufficiency of water in the Sutlej.

1903. Is there not much less water now in the country than there appears to have been formerly; is not water found at a much greater depth than it used to be?

I am not aware of it; the same wells are of very great depth; but our predecessors thought little of the expense of sinking wells as compared with ourselves; they were never deterred by the cost of the thing, if it was deemed necessary, on a road or in a village, to obtain water.

1904. There would be no physical difficulty in making a railway between the Sutlej and the Jumna?

None whatever.

1905. There is no irregularity in the surface of any river which would create any material difficulty in passing it?

No.

1906. There would be no difficulty in passing the Cugger by a single arch?

No; provided the approaches were substantial, with sufficient water-way.

1907. Is there not a very great practical advantage in being enabled, through the occupation of Scinde, to bring the Bombay troops to support the left flank in an operation upon the Sutlej?

There is.

1908. Were you not of opinion, after the death of Runjeet Singh, that it was impossible for us to look forward with certainty to the continuance of the Lahore Government?

I was of that opinion.

1909. Did you not conceive that upon the breaking up of that Government an irruption of the Sikhs into our territory was inevitable?

That it was probable.

1910. Did you not think that we could not remain to the same degree on friendly relations with any Government to be formed in the Punjaub after the death of Runjeet Singh?

Not to the same degree.

1911. Did not that circumstance materially increase the danger of the position of the army at Cabul?

Very materially.

1912. That is, with the Affghans, on its front and its flank; it might have another army on its rear?

Yes.

1913. It therefore became necessary, on military principles, and principles of policy, to withdraw the army of Cabul to a safer position?

After a time: my own idea was, that the army never should have been there at all, and, therefore, of course I should have considered it should be withdrawn at the earliest period consistent with safety, and without loss of reputation.

1914. Was not the position of the army in that situation one of increased danger in the then state of the Punjaub?

I felt that confidence in my own mind, in the means of maintaining for a while general security, that I was not afraid that the Sikhs would obstruct the retirement of British troops; but no doubt there was a general impression to the contrary, and our army beyond was considered to be in a position of great insecurity.

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1915. In point of fact, the Sikh Government fell to pieces very shortly after you left the country?

Yes; it did not fall to pieces whilst our army had to be brought back.

1916. But you are probably aware that it was proposed in the Council of Sheere Singh to attack our army on its return?

I do not believe it to have been proposed by any one of weight and responsibility.

1917. We had it reported that Dhian Singh had proposed it?

His enemies suggested it; he proved in all he did to aid our troops that he had no such intention. His interests were too identified with those of the British Government for that.

1918. Notwithstanding all the efforts made to give the appearance of a voluntary withdrawal of our troops from Affghanistan, was it not impossible to conceal from oneself that their withdrawal from that advanced position, the first retreat ever made by a British army, must have produced a very material effect upon our reputation throughout India, and upon the confidence of the natives, and the whole inhabitants of India in our troops?

It did.

1919. Would it not have been highly unadvisable at that period to have withdrawn our forces also from the Lower Indus, the crisis in the Punjaub pending as it then was, and with the prospect not only of a cessation of friendly feeling on the part of that Government, but even of hostility against us?

I myself never felt any doubt of the security of the Punjaub during a certain period as a retreating or retiring line for our army; if I had felt it so, I should have considered it of the highest importance for them to be secured upon their right flank; but though considering it expedient that we should hold the Lower Indus in strength, there would have been in my mind a question of right whether we were entitled to do so in a direct manner.

1920. But as a measure of policy, there can be no doubt that to have retired at once from the Lower Indus, and from Affghanistan, would materially have affected our reputation?

Very much so.

1921. But there were considerations of right which you think might have affected and interfered with that policy?

I am supposing that the Lower Indus was a territory on which we had no hold and no claim; then, of course, the first question to consider was, were we entitled to hold it.

1922. It was stated in the question that was put to you, that this was the only instance in which a British army had ever retired from any conquest of any country they had taken; do you recollect that in the case of the Burmese war the troops advanced and afterwards retired?

I supposed it was intended by the question to refer to the loss of reputation after measures so extensive had been undertaken and failed. There have been some other instances of troops retiring than at first, in Burmah in 1823; for instance, from the first siege of Bhurtpore early in this century.

1923. You have spoken of the salubrity of the climate in Scinde; did you make that remark with reference to the Europeans generally, or simply with reference to the military?

With reference to the Europeans generally, there were very few, except the military there.

1924. The barracks in Scinde have been greatly improved?

Yes, those at Hyderabad have.

1925. Was there not a barrack at Sukkur?

Yes.

1926. Do you know the site of it?

No.

1927. It was very carefully built?

I believe so.

1928. Whereabouts

1928. Whereabouts is the barrack at Hyderabad?
On the left bank of the river.

1929. Not on the site of the old castle?
Not very far from it.

1930. That is in a very elevated position?
Yes, and the barracks also are elevated.

1931. Was it not supposed that that could be made a sanatorium, and that our men might be removed from Curachee there?
Yes, there was some idea of that; I tried it, but it was too remote; the only sanatorium available on that side of the Bombay Presidency is near Deesa, Mount Aboo, and that has been made some use of for invalid European soldiers.

1932. There is one particularly healthy site in the neighbourhood of Curachee, close to the sea on the beach?
Yes, about three miles from the cantonment; people resort there for sea air.

1933. They call it Clifton, do they not?
Yes.

1934. Great improvements have taken place in the neighbourhood of Curachee since our occupation of it?
Yes.

1935. In the management of land there?
Yes, and in the conservancy.

1936. Has the population increased?
Yes; it is increasing, and was becoming a thriving mart when I visited it.

1937. You are aware that there is considerable communication by steam-boats between Curachee and Moultan?
I take it for granted that there is.

1938. Are the Indus and the Sutlej, both of them, open at all periods of the year for steam-vessels of moderate size?
The Sutlej only at certain seasons.

1939. How high is the Indus navigable?
Up to near the mountains at Attock. I was anxious to test the capabilities of the Sutlej many years ago: a steam-boat went up with some difficulty to Roopur near the foot of the mountains; but it was a work of much time.

1940. Do not you anticipate considerable advantages from the establishment of this regular communication between Curachee and Moultan?
I do; it ought to be furthered in every possible way.

1941. The religion in Scinde is Mahomedan?
Yes.

1942. You were not in Shikarpoor?
No, I was not.

1943. Is Shikarpoor increasing much as a mart of commerce?
I understand it is.

1944. It retains its superiority over Sukkur; nothing of the same kind has been forming upon the Indus?
No.

1945. You consider it very desirable to attempt to navigate the Indus in any manner above Karabagh?
I have not seen the late reports upon the subject; expeditions fitted out for the purpose have, I believe, attempted the navigation for steamers to Attock, but without success.

1946. Have steamers got up to Loodianah?
Yes; the one I speak of went above it.

1947. Are the other rivers more easily navigable than the Indus?

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Not so easily; and it is only in the rainy season that their navigation, by our present class of steamers, could be attempted.

1948. How high is the Beas navigable?
Only, as I have stated, regarding the others.

1949. It is liable to inundation?
Yes; at first from the melting of the snow.

1950. There is no bridge over it?
No.

1951. Is there any bridge over the Sutlej at the upper part?
No; bridges of boats have been thrown across it at times; but nothing more.

1952. That must be removed when the floods come?
Yes.

1953. In speaking of the Court of Directors, and the patronage which attaches to the Directors, you mentioned the difficulty which would arise from the insufficient amount of the patronage of a Director who had filled a high office in India in doing justice to the claims of those whom he had known in India: do you think that, under the present system of patronage, there are many claims to patronage which are neglected or insufficiently provided for?
Testing the distribution of the patronage, by looking at the lists of officers in India, it will be remarked by any one acquainted with India, that a great number are so provided for, and possibly as many as could be consistently with the amount of patronage which it may be just to allot to others.

1954. Do you think that it would have a tendency to facilitate the claims of those who desire advancement in India, if any part of the patronage was taken out of the gift of the Directors and made saleable, so that those parties would be able to obtain the patronage by means of purchase?
No; I think it would tend to diminish the number of appointments now available to those on account of long service in India.

1955. Is it not the fact, that those connected with India, who have claims for advancement, would not, generally speaking, be in a position to avail themselves of the patronage by purchase?
Certainly; as compared with other classes in this country, their means of success, generally speaking, would be less.

1956. Do you think that any other benefit would arise from making the patronage saleable?
Seeing the result of the present system, as we find it in the services of officers in India, I consider it to be doubtful whether the system would be rendered more efficient than it now is by making the patronage saleable.

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned till Monday, the 7th of June.

Die Lunæ, 7° Junii 1852.

THE LORD PRIVY SEAL in the Chair.

Evidence on the East India Company's Charter.

C. H. Cameron, Esq.

7th June 1852.

CHARLES HAY CAMERON, Esquire, is called in, and examined as follows:

1957. YOU were the fourth member of Council in India?
I was, from the year 1843 to 1848.

1958. Who was your predecessor?
Mr. Amos.

1959. Was the Law Commission in existence at that time?
The Law Commission was in a sort of existence at the time when I was in the Council, but it was very nearly extinct; during the greater part of that time there remained only Mr. Daniel Eliott, who is now a member of Council at Madras, who was a member of it, and undertook to act as secretary (the secretary having died, and his place not having been filled up), and myself, who was President; it was reduced to those two; and the vacancies were not filled up, as I think, illegally.

1960. Did you take any proceedings under that Commission when you were so President of it?
Yes, we did; the principal work we did at that time, after I became a member of Council, and had other onerous duties as a member of Council devolving upon me, was to review all the criticisms which had been made upon the penal code: the penal code had been sent round to all the higher judicial authorities in India, and an immense body of criticisms had been collected upon it.

1961. That is what is commonly known by the name of Mr. Macaulay's Code?
Yes; a vast mass of criticisms had been collected upon it in this way from all the judges of the Supreme Court, and the judges of the Company's Courts of Sudder Adawlut; those criticisms had grown to an utterly unmanageable bulk, which the Council felt themselves incapable of digesting; and upon the motion of Mr. Millett, who was then in the Council, they were sent to the Law Commission, that is to say, to Mr. Eliott and myself; we read very carefully all those criticisms, answered the arguments that we thought were answerable, and admitted the justice of those which we thought were just arguments, and reported at great length to the Government of India upon those criticisms, ending with a recommendation that the code should be immediately made law.

1962. Can you give the Committee the dates of those respective proceedings, namely, the date of the presentation of the draft of the code, and the date of the report which you made upon it?
The penal code was presented on the 14th October 1837; the two reports I have mentioned I have here; the first of the two was dated the 23d July 1846; that was after I became a member of Council; and the second was dated the 24th June 1847; those are the two reports made by the Law Commission, in its reduced state, upon the criticisms which had been made upon Mr. Macaulay's Penal Code by the judicial authorities in India.

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1963. Have those reports been presented to Parliament?

I do not think these have; they ought to be, and will be, no doubt; I have never seen them in the form in which our reports have been laid before Parliament.

1964. Where were those printed?

These which I hold in my hand were printed in India; I have never seen them in any other form; I shall be happy to leave these copies with the Committee.

[*The same are delivered in.*]

1965. What was done in consequence of those reports?

Nothing, that I know of; those reports, I presume, have been sent home; but that I do not know of my own knowledge; I have understood that Sir Edward Ryan recommended to the Board of Control that the whole should be settled here; that the penal code itself, and those reports, and the criticisms upon which those are criticisms, should be referred to some competent body of men here, and decided upon; but that recommendation, I believe, was not adopted, and the code has been sent back again to India, as I understand.

1966. Into what heads have you reduced the code in the form of Acts in the India Legislature?

The penal code is itself, as it came out of Mr. Macaulay's hands, ready for enactment, or very nearly so.

1967. But you suggested some alterations in it?

Yes, we suggested some alterations, in consequence of the criticisms which had been made.

1968. Was it not afterwards brought under the consideration of your successor, Mr. Bethune?

Yes, I believe it was; I believe that Mr. Bethune made considerable alterations; I believe he omitted the illustrations which I thought were one of the most valuable parts of the code.

1969. Will you explain what you mean by the illustrations?

In the penal code, whenever a proposition was laid down which the Commissioners thought difficult of comprehension (as your Lordships know many abstract propositions are), they added a series of illustrations, showing what it was they meant; they were better than particular cases decided upon the code, and were likely to do much to make it work well, because they were an exposition of the meaning of the general terms of the code given by the Legislature itself, and having, therefore, the same authority as the general propositions had.

1970. At the period of discussing this penal code in India, was the facility or the difficulty of effecting a translation of the code brought under discussion?

Yes, it was very much brought under discussion.

1971. In what way was it discussed, and what was the result of such investigation?

It used to be very commonly said that it was untranslatable, and that was one of the objections made by some of the judicial authorities. There is a passage upon that subject in the first report of Mr. Eliott and myself upon the code: "Mr. A. D. Campbell is one who has pronounced the code to be 'absolutely untranslatable;' but the instance he adduces is not very convincing. 'It will be no easy task,' he says, 'to convey in any of the native dialects the meaning even of No. 24, which merely declares that "to do a thing" denotes omissions as well as acts; for in every language "to do" must stand opposed to its omission.' We can only say that if there were no greater difficulty than this to be overcome, the task of translation would, in our estimation, be an easy work. We do not, however, think that it will be an easy work; on the contrary, we are of opinion, with the authors of the code, that 'the difficulty of procuring good translations will be great;' but we concur with them also in believing that the means at the disposal of the Government of India 'are sufficient to overcome every difficulty' of this nature. Indeed, when we consider what has been done in India by comparatively private means in the way of translating the Scriptures, we are at a loss to understand how there can be a doubt on the subject. We may advert, also, to what has been actually accomplished in the translation of

of the Regulations of the several Presidencies, and the Legislative Acts of the Government of India, in which we will venture to say are to be found as great difficulties as any that are to be met with in the code. We would instance in the Acts the Preamble to 5 & 6 Vict. c. 39, recited in Act 20 of 1844; the statute recited in Act 9 of 1842, and section 1 of Act 30 of 1839. In the code of the Regulations for the Presidency of Fort William, not to multiply examples, we would point to the Preamble of Regulation 1 of 1821, and to the important Regulation 7 of 1822. The object, we conceive, should be, 'by the combined labour of enlightened Europeans and natives,' to make as good a translation as possible into one native language, known more or less all over India, that is to say, the Oordoo, to be used as an approved model in making versions into all the other languages into which it is usual to translate the laws enacted by the Government of India. This, we believe, was the course taken lately in translating the new articles of war." The Oordoo is a higher Hindostanee: the Hindostanee is a language which approaches most nearly to a universal language in India; and the Oordoo is a higher dialect of that language, the language spoken at the native Courts.

1972. Were any practical measures taken in India to ascertain how far the code was or was not translatable?

Upon that recommendation, I believe, no step was taken.

1973. Will you state what steps were next taken?

There came out an order from home to make an experiment by translating certain important portions of the penal code; and I was requested to select the portions to be translated. I selected two chapters, one of which I thought one of the most difficult in the whole code, and the other one of the most important; and the translation of them was undertaken by two natives, under the superintendence of Sir Henry Elliot, who is himself a very eminent oriental scholar. The result was a translation and a report from Sir Henry Elliot. The report stated that they had found no difficulty that was not perfectly superable by care and attention; and, also, I think he expressed himself very strongly in favour of the penal code. But the report itself is of course to be had at the India House.

1974. Of what nature were the two chapters which you selected for translation, the one in relation to its difficulty, and the other in relation to its importance?

I think the two chapters were the chapter of general exceptions for the sake of difficulty, and the chapter on offences against the person for the sake of the importance of the subject.

1975. Has any subsequent attempt been made in India with respect to ascertaining the practicability of translating the penal code?

I have been told very lately by Mr. Millett, that a civil servant in the North-Western Provinces has made a complete translation of the whole of the code into Oordoo.

1976. Has that been published for the information of the people?

I am not aware that it has.

1977. Have the people of India, for whose government the code is intended, had any opportunity whatever of becoming acquainted with its intended provisions?

I think no other opportunity than the publication of it in English. Many of them read English.

1978. Would it not be very advantageous that, previously to determining upon the enactment of a code of that description, it should be submitted for the consideration and opinion of learned men amongst the Hindoos and Mahomedans?

Yes, I think it would.

1979. Can you safely venture to legislate for a whole people in a language which they cannot understand, while you give scarcely to an individual among that people an opportunity of knowing beforehand what the law is to be which is to supersede all the old laws and customs of the country?

The change is of such a nature, being rather a change of form than of substance,

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that I do not think there would be any danger in that. I proposed in my capacity of President of the Council of Education that, supposing the Government should give its sanction to the code, lectures should be established in the Hindoo College and other colleges upon the penal code; and I sent for Mr. Kerr, who was then the principal of the Hindoo College, and consulted him upon it; and he read the code, and said that he felt he should have no difficulty in making his students acquainted with its provisions.

1980. Was that part of the code which was translated, relating to offences against the person, published for the information of the natives, as intended Acts usually are?

I am not aware; it was sent home; but I am not aware of anything further that was done with it: for anything that I know, it slumbers at the India House.

1981. You were asked just now, in relation to the penal code, whether any steps had been taken in India to make it known; whether steps were taken advisedly or not for the purpose; was not it the fact that it did become known; did itnot become known in the Bombay Presidency, for instance?

I have no doubt that it became known over a very large portion of India. I have no doubt that it became known to a very great number of natives—to all those natives who are able to read English, and who take an interest in such a subject.

1982. Was any application made from the Bombay Government to the Government of India upon the subject of this penal code?

Yes, more than one application was made by the Government of Bombay to have this code enacted for that Presidency. I was then in the Council, and I urged it upon the Council, founding myself upon a section of the Charter Act—I think it is the 66th section—which says, that when either of the subordinate Governments desire that any law should be passed for them, the Supreme Council shall either pass the law, or shall assign reasons in writing to those Governments for not doing so. I called the attention of my colleagues to that section, and urged that we had no reason for not giving Bombay the code for which they asked. Though my colleagues were not satisfied that it was fit to be enacted for Bengal and for the rest of India, yet they were not prepared to make any objections to it; therefore I thought they ought to have given it to the Government of Bombay, when they asked for it for their Presidency; and I wrote a minute upon that, which minute I have here, and shall be glad to put in as part of my evidence.

The same is delivered in, and read, as follows:

REPORT of the Law Commission on the Penal Code.

I HAVE signed this Report, and fully approve of it; but I think it ought to be known to my colleagues, and to the home authorities, that the great labour which has been bestowed upon it, and the great merit which, in my opinion, it possesses, are Mr. Eliott's, and his only. The Report is entirely his composition; and all the assistance I have rendered him has consisted in discussing with him the various subjects of which it treats, and in occasionally suggesting additions, retrenchments or corrections. The Report appears to me to show decisively that the chapters of the Penal Code which are examined in it have passed successfully through that ordeal to which they have been very properly subjected—I mean the criticisms of the judges of the Supreme and Sudder Courts—and I have no hesitation in recommending that these chapters should be substituted in the Mofussil for all the existing law on the subject. The Bombay Government has more than once asked for the Penal Code, and, according to the Charter Act, we ought either to give them what they ask for, or to assign reasons for the refusal. If it is thought desirable not at once to change the law throughout the whole of India, Bombay offers itself, by the mouth of its Government, to take the lead in this great improvement. With regard to the Presidencies, I do not at present make any recommendation. I reserve myself until it shall be decided whether we are to go on with two systems of law, whose defects are of an opposite kind, one sort administered by judges who have been trained by jurisprudence, the other by judges who want that preparation; or whether we are to have one system for British India, framed according to the best lights of the present day, and to place at the head of the judicial establishment, which is to administer that system, the men who have had the regular education of professional lawyers, associated in one and the same Court with the men who have had most experience of the laws and usages of the several native races who inhabit this peninsula. When I arrived in this country, and endeavoured to take a survey of the vast field of legislation which Parliament

ment had marked out for the Law Commission, with a view to devise a regular plan for its proceedings, I felt strongly impressed with the expediency of beginning with the Presidency towns. I thought that by abolishing all those technicalities of English law and procedure which are not the technical form of any really useful principle, and by uniting in one Court of original jurisdiction all those powers which experience has shown to be beneficial in that variety of Courts and systems which has sprung up without any general design in England, we should be able to produce a scheme of judicature which, being framed by selection from the greatest variety of long-tried materials, would probably be the best that has ever existed, and would, of course, afford the best model for imitation in reforming the Courts of the Mofussil. But having been foiled in every attempt to make progress in this direction, I am now disposed to recommend that every improvement which we may desire to introduce into India should be introduced into the Mofussil. It is true that Bombay has been a partial exception to the general resistance* which the judges of the Supreme Court have felt it their duty to offer to the innovations of the Law Commission. Sir John Awdry declared himself ready to administer the Penal Code; and Sir Erskine Perry is prepared to do that, and also to preside in a Civil Court, framed upon the plan suggested by the Law Commission; but the chief justices at Bombay have hitherto taken a different line; and Sir David Pollock has so recently arrived, that it would scarcely be fair to address to him a question which he could not answer without a careful perusal of so long and elaborate a document as the Penal Code. Under all the circumstances of the case, the practical measure I recommend is, that we should accede to the request of the Government of Bombay, so far as to prepare an Act embodying those sections of the Penal Code which form the subject of the Law Commission's Report, and enacting them for the Presidency of Bombay, except the local limits of the judicature of the Supreme Court; and I would at the same time suggest that the Law Commission be directed to prepare a scheme of pleading and procedure, and a set of forms of indictment adapted to the definitions of crimes contained in these sections of the code. We might fix the second reading of the Act at so distant a date as to admit of this scheme of pleading and procedure being prepared, embodied in an Act, and read a first time, so as to be ready for the second reading at the same time with the portion of the code to which they relate.

Calcutta, 13 November 1846. C. H. CAMERON.

1983. You are very well acquainted with the condition of the people in Ceylon?

Yes.

1984. Have you ever been at Bombay?

I went out lately to Ceylon to look at some property which I have there, and in my way back I touched at Bombay.

1985. You had no opportunity, while there, of forming any opinion as to the condition of the people?

No; I was only there a week.

1986. Were you ever at Madras?

I have been at Madras three times; a few days each time.

1987. Are you of opinion that the penal code is so general in its application as to be capable of being safely applied to nations so totally distinct as the people of the Upper and Lower Provinces, and the people of the Madras and of the Bombay Presidencies, and that it is equally applicable to all?

I should not venture to say it of my own authority; but I will venture to say it, when we have the opinions of civil servants who have lived in all the different parts of India. My own opinion was that the Law Commission ought to have travelled; and I always thought that was the intention of Parliament.

1988. Is that course of proceeding alluded to in the last Charter Act?

Yes, it is alluded to, as I think your Lordships will see in the Act.

1989. Will you read the section?

It is section 53, which enacts that a Commission shall be established: "Be it therefore enacted, that the Governor-general of India in Council shall, as soon as conveniently may be after the passing of this Act, issue a Commission, and from time

* *Note.*—I need hardly say that I am not presuming to impute blame to the judges of the Supreme Courts. I, of course, think them in error, as I think the Law Commission in the right; but as I am sure their resistance is conscientious, it would be the highest arrogance in me to expect that they should waive their objections. I may mention, that Sir E. Ryan and Sir B. Malkin used to think favourably of the Penal Code while it was in progress, and also that they thought a fair trial should be given to the subordinate Criminal Court proposed by the Law Commission.

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time to time Commissions to such persons as the said Court of Directors, with the approbation of the said Board of Commissioners, shall recommend for that purpose, and to such other persons, if necessary, as the said Governor-general in Council shall think fit; all such persons not exceeding in the whole, at any one time, five in number, and to be styled 'The Indian Law Commissioners,' with all such powers as shall be necessary for the purposes hereinafter mentioned; and the said Commissioners shall fully inquire into the jurisdiction, powers and rules of the existing courts of justice and police establishments in the said territories, and all existing forms of judicial procedure, and into the nature and operation of all laws, whether civil or criminal, written or customary, prevailing and in force in any part of the said territories, and whereto any inhabitants of the said territories, whether Europeans or others, are now subject; the said Commissioners shall from time to time make reports, in which they shall fully set forth the result of their said inquiries, and shall from time to time suggest such alterations as may, in their opinion, be beneficially made in the said courts of justice and police establishments, forms of judicial procedure and laws, due regard being had to the distinction of castes, difference of religion, and the manners and opinions prevailing among different races, and in different parts of the said territories." Then section 54 goes on to say, "That the said Commissioners shall follow such instructions with regard to the researches and inquiries to be made, and the places to be visited by them, and all their transactions with reference to the objects of their commission, as they shall from time to time receive from the Governor-general of India in Council."

1990. Have any cases occurred within your knowledge, in which you think the power of visiting various parts of India in relation to their peculiar customs and laws would have been advantageous?

Yes, I think it would have been generally advantageous with regard to all their recommendations; but I remember two instances in particular, in which I remonstrated against the orders of the Supreme Council, which amounted to a prohibition to travel and take evidence. The first was a matter which was referred to us in the early days of the Law Commission, relating to disputes between the indigo planters and the ryots, from whom they take the land upon which they plant the indigo; and respecting which they enter into contracts with the ryots, which frequently end in a battle with club-men for the possession of the land. This had grown into a great grievance, and the Government referred the question to us; I said that it appeared to me to be one of those cases requiring that the section of the statute I have quoted should be attended to, and that the Law Commission should be sent into the district (Tirhoot, I think, was the principal district in which those disorders used to prevail), and that they should make inquiries upon the spot to qualify themselves for recommending what might be an appropriate remedy: I think there was no answer to that representation; we were not permitted to go.

1991. From whom was the permission to travel to be obtained?

From the Government of India. I conceived that it was the duty of the Government of India to have directed the Commission to go into those districts, and to make inquiries upon the spot. They did not do so, nor did they attend to my remonstrance. The second case was the case of slavery, which is a special case, in which the statute enacts that inquiries shall be made; and the Court itself had in various despatches often recommended that inquiries should be made in the places where slavery principally prevailed, in Assam and Malabar, for example. The Law Commission made a solemn protest, which they intended to attract the notice of the home authorities, and also of Parliament, as those reports were to be laid before Parliament.

1992. What is the date of that?

The 15th of January 1841. We recapitulated the preliminary correspondence which had taken place between the Government and the Commission, among which was a letter from our Secretary, dated 16th November 1838: "Our Secretary, therefore", we said, "wrote as follows: 'With reference to an extract from a despatch from the Honourable Court of Directors on the subject of slavery, the Law Commissioners direct me to say, that if it is the wish of Government that they should now enter upon the general question of the abolition of slavery throughout India in execution of the intentions of Parliament, they would suggest

suggest that some of their members should be detached for the purpose of local inquiry. They feel that without such inquiry it would be impossible for them to pronounce with confidence upon the time at which, or the means by which, the abolition of slavery can be effected with a due regard to those interests which, however iniquitous as regards the slave, appear nevertheless to have the sanction of legal right.' They go on to say, 'The Commissioners possess, it is true, much information in the shape of answers to questions addressed to the several Courts of Sudder Dewanny and Nizamut Adawlut. But these questions were framed with a view to obtain such information as should enable the Commission to determine whether it was necessary to make any distinctions in the penal code in consequence of the legal existence of slavery; and it is obvious that a much more searching and minute inquiry is necessary before the Commission can venture to recommend positive measures for the mitigation and ultimate abolition of slavery. They abstain from entering into any further details until they are informed whether it is the wish of his Honor in Council' (the Governor-general was then absent in the North-West) 'that they should give their assistance to Government in executing the intentions of Parliament as expressed in the 88th section of the Charter Act. In reply, the Law Commission were informed that it was not the intention of the President in Council to direct them to institute an inquiry into the state of slavery in India in the manner they had suggested.' Then the Law Commissioners go on to say in their report, 'The above detail has appeared to us to be necessary for two purposes: first, for the purpose of showing that we did not delay to enter upon the subject of slavery after we had been instructed to do so, although it was not without regret that we were compelled to withdraw our attention from several subjects on which we were engaged, and which, in our opinion, are of still greater importance than slavery; and, secondly, for the purpose of showing that the report which we have now the honour to present is not the result of such an inquiry into the subject as we should have thought it right to make, if we had been left to the guidance of our own discretion. As our reports are to be laid before the two Houses of Parliament, who are not cognizant of the details of our proceedings, each report ought, as it seems to us, to show the circumstances which may increase or diminish its value.'"

1993. By whom is that signed?

That is signed by the Law Commission; the Commissioners differed upon many points from one another, and therefore they reported separately. The first part of the report is signed by Mr. Millett and myself; the second part is signed by Mr. Amos, Mr. Eliott, and Mr. Borrowdaile; but all the five signatures are given to what I have read to your Lordships.

1994. Was not slavery abolished about March 1842?

I think so; I do not remember exactly the date.

1995. Can you give the Committee shortly the dates of the several proceedings with respect to the penal code: you have given the date of the presentation of the penal code prepared by Mr. Macaulay, and the date of the two reports of the Law Commission; but you have not stated the date of the reference of those reports home?

I am afraid I cannot give that. My minute, recommending that the request from Bombay should be complied with, is dated the 13th of November 1846. There is one part of the history of the code which has not yet been stated. In this same minute I recommended that the Law Commissioners should be directed to prepare a scheme of pleading and procedure for carrying into effect the penal code; that recommendation was carried into effect by the Council of India. Directions were sent to the Law Commission to prepare such a plan of pleading and procedure.

1996. You have stated that the code was sent home from India; can you state the date of its transmission?

No, I cannot.

1997. You stated Sir Edward Ryan's suggestion upon the subject of the code; was that a written suggestion?

I do not know.

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1998. You stated that the purport of it was, that the code should be considered in England, and finally disposed of?
Yes; instead of that, I understand that it was sent back to India.

1999. From your knowledge of the business before the Government of India, do you think it humanly possible that the Government could give the necessary consideration to the code?
No, I think it impossible, either to that code, or to any of the larger suggestions of the Law Commissioners.

2000. But the Law Commission had plenty of time to devote to it?
Yes, it had nothing else to do; it was created solely for those purposes.

2001. When was the plan of criminal procedure presented?
That was the last thing I put my hand to before I left India, in 1848.

2002. You also proposed a plan of a model Civil Court?
Yes.

2003. When was that presented?
That was presented in the year 1844; Lord Ellenborough was then Governor-general. When I presented it as President of the Law Commission, Lord Ellenborough said that it was clear that the Council had not time or means to form an opinion upon such a large proposition of law reform; and, therefore, that it must go home. I assented to that, and said I should be glad to write the despatch which was to take it home. Lord Ellenborough said, "By all means write the despatch;" and I wrote it accordingly. The despatch recommended that the report in question, and the plans which it contained, should be referred to competent jurists in England.

2004. You also proposed a plan of civil procedure; when was that presented?
That was the 5th of February 1844.

2005. You prepared also a plan for the abolition of the Recorder's Court in the Straits of Malacca, and for the constitution of an improved judicature there; when was that presented?
I have not got it here, and I cannot give the date at all, but it was while Lord Ellenborough was in India; it must have been in 1845 or 1846.

2006. Will you state the other plans of law reform which you propose?
The next in the order in which they are mentioned in my petition, after the abolition of the Recorder's Court in the Straits of Malacca, was a law of prescription and limitation; that was at a very early period, but I cannot give the precise date. Then comes a *lex loci* for British India; the date of that report was the 31st of October 1840.

2007. Now will you have the goodness to go through the different plans, taking first the plan of the model Criminal Court; have you any observations to make upon that?
As to the plan of the model Criminal Court, what became of it I really do not know; I know that nothing has ever been done upon it: it was a recommendation by the Law Commission to form a Criminal Court, and it went into the important subject of the jury, or the association of the public with the business of judicature; it contained an elaborate dissertation upon that subject.

2008. Will you state the principal points of that recommendation?
The principal recommendation upon that subjectwas, that every Court should sit with a small number of the public associated with it; three, I think, was the number fixed upon; and that the judge should be bound to sum up and to explain the whole case to them, but that he should have the power of overruling their verdict.

2009. Will you state the proposed composition of the model Court?
It was to consist of one judge sitting with three jurymen.

2010. From what class were the jurymen to be chosen?
From the respectable householders of the neighbourhood.

2011. Without any reference to religion?
With no reference at all to their religion.

2012. Was the judge to be a European?
The judge was not necessarily to be a European; he might either be a European or a native.

2013. What class of cases was that Court intended for?
The recommendation we then made applied only to offences not of the gravest character; the direction sent by the Government of India to the Law Commission was to provide a subordinate Criminal Court for Calcutta; but the Law Commission took the opportunity of stating, as it always did in such cases, the principles which it entertained upon the subject of criminal judicature; it was intended by the Law Commissioners as a model Court for general penal purposes.

2014. Has the use of a jury as assessors, whose judgment might be overruled by the judge, been introduced at all into the practice of India?
No, I think it has not; but before I went to India I was a Commissioner for the reform of the law in Ceylon; I recommended it there, and it was established upon my recommendation, and it has worked well, in my judgment; I should say that it is a question upon which there are great differences of opinion; I do not think the judges like it much; a judge likes to sit with a jury, because it protects him from responsibility; but a judge does not like to sit with this kind of jury, where he has the power of controlling the verdict, because it does not protect him from responsibility, and yet gives him all the trouble of making the whole matter clear to the jury, and of course of making it first clear to himself.

2015. Does the system which you established at Ceylon exist now?
Yes, it exists; but there have been several alterations for the worse in it; I have heard lately of a book published by a Ceylon civil servant, stating that the evils at present existing had resulted from deviations from my system.

2016. Do you know in what proportion of cases the judge overruled the verdict of the jury?
No, I am unable to say that.

2017. Has not the practice of trial by jury been used with great advantage at the political residences?
I believe it has; that I believe was the result of a recommendation of the Law Commission: I believe it was the Assam judicature, or the Mysore, for which the Governor-general requested us to draw up a small code of procedure, and we inserted the principle in it.

2018. Do you know with what success it has been carried out?
No, I cannot answer as to the success of it; I think it has been applied in Assam, and Mysore also.

2019. Not in the North-West Provinces?
Yes, I think by Colonel Tapp; but I do not recollect what district he ruled over; I think he had the superintendence of the judicial administration of a district in the North-West at the time I am speaking of.

2020. Has not trial by jury been introduced very frequently amongst the political residences in judging great offenders?
I cannot answer that question.

2021. Is not the Puncheyat very congenial to the character of the natives?
I think it is, certainly; the Puncheyat is a very ancient institution.

2022. Will you explain what the Puncheyat is?
The Puncheyat is a meeting or court of a village; it is a meeting of five or more (the name implies "five") inhabitants of a village to decide the disputes arising among the villagers; but the Puncheyat sits without any judge presiding over it.

2023. And the Puncheyat has an absolute jurisdiction?
The Puncheyat, I believe, has an absolute jurisdiction over the case.

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2024. Will you state what the distinction is between the Puncheyat and the jury?

I am not sure that I can; the Puncheyat, I presume, is elected by the villagers; and it is both judge and jury.

2025. They are arbitrators?

Yes.

2026. Not nominated by any superior authority?

No.

2027. Are they not selected *ad hoc* in each case?

Yes, I understand so; but I do not know that they can be strictly called arbitrators, because, I believe, they are strictly bound by what they understand to be the law; they have not an arbitrary discretion over the law.

2028. Will you proceed now to state what occurred with respect to the plan of a model Civil Court and the plan of civil procedure?

The report of the plan of a model Civil Court was presented on the 15th of February 1844—I have related already what passed between Lord Ellenborough and myself at its presentation—then it was sent home with the despatch which, with Lord Ellenborough's assent, I had written. The despatch was a recommendation that it should be referred to competent jurists in England; it was a report for the reform of the English part of Indian judicature. Your Lordships are aware that at the three Presidency towns the English system of judicature is the established system, and this was a plan for the reform of that system; and I am happy to say that the principal recommendations in it were those which are now being adopted for English judicature in England, namely, the principle of the administration of law and equity in one and the same Court, instead of bandying the suitor backwards and forwards from a Court of Equity to a Court of Law, and the abolition of the Master's Office; that is to say, that the whole cause should be brought under the cognizance of the judge who is to decide it, and not that fragments of it should be broken off and referred to a separate judge. Those two great changes recommended in that report are now recommended by the highest authorities in England. They were recommended by me more than ten years ago for the reform of English judicature in India. Then the report was sent home with a recommendation that it should be referred to competent jurists. A considerable time afterwards a despatch came out from England, stating that it had been referred by the home authorities to the Attorney and Solicitor-general and to the Company's counsel; the present Attorney and Solicitor-general were then the Attorney and Solicitor-general, Sir Frederick Thesiger and Sir Fitzroy Kelly. The report of those law authorities was highly favourable to the plan; they entirely approved of the union of law and equity in the same Court; they entirely approved of what was also recommended by me, the union of small cause judicature with general judicature, instead of separating small cause judicature, and handing it over to inferior judges, making it an entirely distinct thing from the ordinary administration of justice. My report recommended that both sets of causes should be cognizable by the same Courts, and that recommendation also the Attorney and Solicitor-general approved of; but the despatch, singularly enough, instead of adopting these recommendations of the Law Commission, rather sneered at me as a law reformer.

2029. What despatch do you mean, from the Court of Directors?

From the Court of Directors; they ended by telling me to take Westminster Hall as my model.

2030. What was the date of that?

I cannot give the date; I have never seen the despatch since that time, and I have no means of getting at the date; I think it was probably in 1847; but I have never seen the despatch since the day I saw it in the Council in India, when it made such a strong impression upon me that I well remember its contents, though I do not remember the date.

2031. What are the great evils now existing from the want of a general code in India; and what are the advantages which you expect to be derived from the adoption of such a code?

The

The great evils existing at present are the immense diversity of the laws, and the extreme uncertainty of them; the expected benefit, of course, would be the removal of those evils, and obtaining certainty.

2032. You are speaking now of the criminal code only?
Of the criminal code only. What I have said has reference to the criminal code, but it applies, also, though not so strongly, to the civil law.

2033. Your answer implies that there will be a great change produced by the code?
Yes, I think there would be considerable change.

2034. Your were understood to say before, that the change would not be great; that it would be rather a change of form than of substance?
I think so. I think the change in form would be greater than the change in substance; but there would be a considerable change in substance; I can give illustrations of that: I remember a case occurring in which two Mahomedans, a Mahomedan man and woman, were found guilty of adultery. At Bombay adultery is punished criminally by the Mahomedan law; and the Court which tried them, and the Company's highest Court, the Nizamut Adawlut, was obliged to decide that the man should be sentenced to death, and the woman to 14 years' imprisonment, that being the law. Of course, such a monstrous sentence as that was not executed; but that was the Mahomedan law. Then another case I remember, which was also a case of adultery, where an East Indian was found guilty somewhere up the country, and sentenced to two years' imprisonment. If he had committed adultery 20 times over in Calcutta, nothing could have been done to him. Those are anomalies which are wholly unjustifiable.

2035. In the latter case you have stated, was not the offender pardoned, in consequence of his being a Christian?
I do not recollect how it ended; I dare say he was pardoned.

2036. Would there be any objection by the Mahomedan population to an alteration of those laws?
No, I do not think there would. We have never said that we repealed any such law; because their law is part of their religion; but what we have always said is, that our Courts should no longer continue to administer that part of the law, and that our law is substituted for it in the administration of justice in our Courts, and they do not make any objection to it. Then there was another case, which was a case of perjury. The Superior Court, the Sudder Adawlut, had laid down a certain definition of perjury, applying to the case of a man who has made contradictory statements upon oath, and the judge who tried the case felt himself bound, by this definition laid down by the Superior Court under which he was placed, to decide that the man was guilty of perjury, although he was not satisfied that there was any *malus animus* at all. He said, "The prisoner appears a weak, ignorant creature, and may possibly have erred as much from intellectual incapacity as from vice;" but the man was punished by imprisonment, with labour and irons, for a year; though, for anything that appears, he had not committed any offence.

2037. Was that owing to a difference in the code?
The new code would, of course, provide that no such definition as one involving such an absurd and iniquitous consequence should continue to exist.

2038. That would be by the substitution of a better definition, and not the mere establishment of uniformity?
It would not make such a case impossible by mere uniformity, but by the goodness of the code.

2039. Are there any other cases that you can mention, showing the inequality and uncertainty of the laws?
I have no doubt that you could find a great number of cases, if proper inquiry were made.

2040. Are many complaints practically made by persons administering justice in India, that there are great inequalities and great defects in the present system of law?

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I think that nearly all the India authorities consider that the enactment of this code would be a great advantage.

2041. Do you recollect a minute of Sir Charles Metcalfe's upon this subject, in February 1829?

Yes.

2042. Will you have the goodness to read it?

"The only objection that strikes me to the spread of a British Christian population in India is the existing discordance of the laws by which our English and our native subjects are respectively governed. This objection will, no doubt, in time be removed, and the sooner the better, by framing laws equally binding on both parties in all concerns common to both, and leaving to all their own suitable laws in whatever peculiarly concerns themselves alone. The present system of judicature in India, by which the King's Court is rendered entirely separate from the local administration and institutions, and often practically subversive of their power and influence, is fraught with mischief; and that part of the system which makes our native subjects, under some circumstances, liable to the jurisdiction of the King's Court; under some to that of the Company's Court; and under some to that of both, without regard to residence, or any clearly defined limitations by which our native subjects can know to what laws or courts they are or are not amenable, is replete with gross injustice and oppression, and is an evil loudly demanding a remedy, which can only be found in a strict local limitation of the powers of his Majesty's Court, with regard to the persons and property of native subjects, or in an amalgamation of the King's Courts with the local judicial institutions, under a code of laws fitted for local purposes, and calculated to bestow real and equal justice on all classes of subjects under British dominion in India." I entirely assent to all that; and I think I can undertake to say that if the Law Commissioners had been properly supported from home, and if its recommendations had been attended to, as I think they were entitled to be attended to, a great part of all these evils would have been removed, and all of them would have been in course of removal.

2043. You think that there would be no difficulty, from the religious feelings of different portions of the population of India, in enforcing the new penal code?

I think the penal code makes ample provision for that; but there are no doubt cases in which their religious feelings have been affected.

2044. Do you mean in penal matters?

No; in questions of property.

2045. Are you aware that an extract from Lord Metcalfe's minute was relied upon in Parliament in support of the provision of the law which appointed the Law Commission in India?

Yes; I remember very well that it was quoted by Lord Glenelg; and I also remember opinions to the same effect being quoted from Sir Charles Grey and Sir Edward Ryan; and to all those I entirely assent; and for the evils there set forth, I think the Law Commission proposed an appropriate remedy.

2046. Sir Charles Metcalfe's minute refers to a diversity in the law, as applied to the natives of Europe, and to the natives of India; you do not propose to subject the natives of Europe to the same law as the natives of India?

No, I do not. I have here a correspondence which passed between Lord Ellenborough and myself, just before I left England; with Lord Ellenborough's approbation I should be glad to read this, with reference to the general duty which the Law Commission was going to fulfil in India. The correspondence began by a letter from Lord Ellenborough to me.

The Letters are read, as follows:

Sir, India Board, 23 January 1835.

As in the course of your travels through different provinces of India, in the execution of your official duties as one of the Indian Law Commissioners, you will have many opportunities of forming an opinion as to the assessment and collection of the revenue, and the opinion of a fresh and unprejudiced mind upon those subjects would be of much value, I venture to express a wish that you will have the goodness to favour me from time to time with the result of your observation and inquiries on these important points.

You

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You will find the revenue assessed and collected in various modes, and I wish to know which of the various modes appears to you to be the best, and how far the several different systems are apparently adapted to the districts in which they are established.

Your attention will naturally be directed to the native colleges. It is, I apprehend, from those colleges that we must for some time draw the natives qualified to exercise the functions of fiscal and judicial administration. It is of importance, therefore, that while proper opportunities are afforded in those colleges of instruction in mathematics, logic, and other sciences, there should likewise be afforded in them the means of acquiring all such knowledge as is of practical use in thesubordinate offices of Government, and yet more, that the moral discipline in them should be such as may tend to form upright and trustworthy public servants. I am anxious to be informed how far this is the case, and to know what alterations you would suggest for the accomplishment of this object. I request you will inquire of what religion and of what class in society the students most commonly are; what are the acquirements, and what the character of their instructors; and whether the persons educated in the colleges have generally been distinguished above others in the public service. It has been considered that a practical knowledge of revenue administration is of the greatest use to Europeans placed in judicial situations, and it may be right that their education should commence in the revenue department; but surely before they can be safely entrusted with the administration of the law, they should know something about it. I fear there is little opportunity of acquiring this knowledge, and I should be glad to be informed in what manner you think it would be most conveniently afforded, and a class of men created who, with some acquaintance with the general principles of law, should be learned in the law which is established in India.

A matter of much importance is the police of the country. My impression is, that the fittest persons for the direction of the village police would be found amongst the non-commissioned officers of the native regiments. I have not in view the abolition of any of the hereditary offices of police which exist in many parts of India, but the giving of efficiency to the general police.

I apprehend that the best administration we have ever given to any part of India has been that which has been temporarily established in a newly-conquered district, an administration by natives under European superintendents, and but few of them; but I am in doubt whether the success of this administration may not have arisen from the circumstance of the ablest men having been selected as superintendents rather than from any inherent virtue in the system. You will find that the limited number of the civil servants, and the rules by which their promotion is regulated, oppose the most serious obstacles to the good government of the country. The difficulty will be not so much to discover a good system as to find agents of sufficient ability to carry it into effect.

You have to frame a system of civil and criminal administration which shall control the European settler, without lowering the European character, of which the ascendancy and even the pride must be preserved. You must make justice accessible to all, and cheap not only to the suitor, but to the Government, for our financial difficulties are such that an increase of charge to afford a better administration would render necessary an increase of taxation, and thus in an impoverished country produce general suffering far greater than the individual suffering it might tend to remove.

I see no ultimate remedy for all the evils which exist in India but the employment of natives very extensively in the civil administration. Natives able and willing to serve it may be easy to find. The difficulty is to find them honest; and the great object of our legislation and of our Government should be to form a class of trustworthy public servants, and under them a moral people.

My general idea is that even now three or five natives might be usefully and safely employed as assessors to the judge, whether native or European, with power to examine witnesses, and to give and record an opinion, it not being made imperative upon the judge to adopt it.

I do not see how the inferior Courts can be kept in order without frequent circuits of the superior judges, not so much for the purpose of hearing formal appeals as for that of affording to the people the means of making known their complaints.

Many of the countries of the East have, we know, been very well governed; and the best mode of governing India will probably be found to bear more resemblance to the best practical form of eastern administration than to the best European theory.

I feel satisfied that it will be your object to disturb as little as possible the ancient institutions and customs of the people. It is by respecting these that we have raised and hitherto maintained our empire. There are amongst the natives of India men who have higher personal pride than is ever seen in Europe; yet even this must be respected in our mode of administering the law. You will, I am sure, endeavour to adopt everywhere the system to the people, and above all things avoid uniformity in a country more various than Europe. What might succeed in Bengal would produce insurrection in the North-Western Provinces and in the Deccan. Whatever may be the ignorant haste of philosophers in England to see from day to day some great alteration in the laws and administration of India, and whatever may be your desire to prove that you have been a zealous and an industrious investigator, I feel confident that you must have too deep a sense of the responsibility with which you are invested, having practically in your hands the future happiness of a great people, and the future security of a vast empire, not to pause long and anxiously before you recommend any material change. There may be as much boldness, and as much

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wisdom, and as much real service in resolving to do nothing as in the most extensive and glittering revolution.

You are aware that there will not be any official correspondence between the Indian Law Commissioners and the India Board; you will communicate officially only with the Governor-general in Council; whatever communications you may do me the favour to make to me, I shall consider private or public, as you may desire; in the latter case, I should place your letters in the judicial department at the India Board, where they would remain for the use of my successor, but not liable to be called for by Parliament.

Perhaps this will be the best course.

I shall be most happy to see you at any time before your departure, and I will give my best consideration to any points you may wish to submit to me.

If in the course of your inquiries you should have occasion to refer to any papers at the India Board, every facility will be afforded to you.

I have, &c.
(signed) ELLENBOROUGH.

My Lord, Chester-street, 26 January 1835.

I HAVE the honour to acknowledge the receipt of your Lordship's letter of the 23d instant, and beg to assure you that I will give my most careful attention to the subjects to which your Lordship is pleased to direct it.

In my present position it would not be fit that I should occupy your Lordship's time with my immature views regarding questions upon which the inquiries and reflections of my colleagues and myself ought to throw much light.

There is, however, one passage in your Lordship's letter which suggests to me the propriety of laying before you what I consider to be the scope of the very important commission with which my colleagues and myself have been honoured.

The passage I allude to is the following: "I feel satisfied," your Lordship does me the honour to say, "that it will be your object to disturb as little as possible the ancient institutions and customs of the people;" and a little further on, "You will, I am sure, endeavour to adopt everywhere the system of the people, and, above all things, avoid uniformity in a country more various than Europe."

The main scope of the Indian Law Commission, as I understand it, is not to alter the rights with which the natives of the British Empire in India are now invested; but to ascertain what those rights are, to define them, and to devise means of effectually protecting and enforcing them.

We are to ascertain what the existing rights are by the study of Hindoo and Mahomedan law books, and by consultation with Hindoo and Mahomedan lawyers; by the study of the regulations of the British Governments, and the decisions of the British Courts, and by inquiries carried on at those places where there is reason to believe that local peculiarities exist of sufficient importance to form part of the *corpus juris*; the less important local peculiarities being left in the condition of customs, to be proved in each suit by those who allege their existence.

We are then to define the rights thus ascertained, that is to say, we are to express them in a series of accurate, consistent, and well-arranged propositions, fit to receive the express sanction of the Legislature, separating those rights which obtain over the whole of our empire from those which obtain only over one or more divisions of it, and those again from such as obtain only over one or more subdivisions.

We are then to devise the means of effectually protecting and enforcing the rights which we have thus ascertained and defined; that is to say, we are to recommend what (considering all the circumstances of the people who compose our Indian Empire) appears to be the best judicial establishment, the best law of actions, civil and criminal, and of evidence, and the best police.

If I have here taken a correct view of the great enterprise in which I am going to be engaged, it involves, your Lordship perceives, no alteration of existing rights, either by the substitution of uniformity for diversity, or in any other way.

There is, however, a secondary class of rights, such, for example, as a right of action, a right of appeal, &c., which exist only for the sake of those primary rights of which I have been speaking, and are valuable only as conducing to their maintenance; and with regard to this secondary class, it is probable that in performing the last of the three duties I have described, we shall have to recommend changes—for a well-considered change in these secondary rights may have the effect of putting the people in the substantial and practical possession of primary rights, which now perhaps exist only in name. It is to be observed, too, that the secondary rights as they now exist in our Indian dominions are almost entirely of European institution, and possess already a great degree of uniformity.

It is indeed possible that some of the primary rights existing in India may be found to be of an inconvenient kind; and it is probable that their inconvenience will become more manifest when the labours of our commission shall have exhibited the rights themselves more distinctly; but I can with the utmost sincerity assure your Lordship that I consider any change in them to be one of the most delicate and difficult tasks which a Legislature can be called upon to perform, and one which I should never recommend without providing complete indemnity for those who may suffer, nor until sedulous endeavours have been used to bring the public mind into a frame favourable to the alteration.

I have expressed myself as concisely as possible, both from the fear of intruding unreasonably

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sonably upon your Lordship's time, and also because you will find the subject of the Indian Law Commission discussed at length and with great ability in the draft of the general legislative despatch (dated 10th December 1834), containing instructions for carrying the new Act into effect, as it was originally sent from the India House.

I feel much honoured by the desire your Lordship expresses, that I should communicate to you the result of my observations and inquiries on the assessment and collection of the revenue, and, by your Lordship's permission, to address you on the subjects which will come under my consideration as an Indian Law Commissioner; and I beg to offer you my sincere thanks for the readiness with which you have promised me, and indeed have already afforded me, access to yourself and to the documents of your office.

I have, &c.

The Lord Ellenborough. (signed) C. H. Cameron.

Sir, India Board, 26 January 1835.

I have the honour to acknowledge the receipt of your letter of this day's date.

It has given me much satisfaction, for I feel that nothing but good can arise to the people of India from investigations carried on in the spirit you manifest.

My apprehension is that you will find that, in order equally to maintain in all parts of the country the primary rights to which you have adverted, the rules of civil and criminal jurisdiction must be various, not uniform; that the judicial establishment cannot be everywhere the same; and that there must be material differences in the mode of organizing the police, and in the powers entrusted to it; but upon these subjects I can speak only from the general impression left upon my mind by what came before me four years ago.

I shall only add, that it is very gratifying to me to see the temper in which you undertake your important task. Whatever may be recommended by you and your colleagues will be considered by me with every disposition to find reason to acquiesce in your opinions; but the little experience I have had in Indian affairs has taught me the necessity of extreme caution, and the expediency of hearing much and reflecting long before I come to a decision.

I remain, &c.

C. H. Cameron, Esq. (signed) Ellenborough.

2047. Did the code carry out that principle of merely altering secondary rights with a view to the enforcement of primary rights?

The civil code has never been made.

2048. You were understood to say, that the code of law which has been drawn up was intended merely to be applicable to the native laws?

If the recommendations of the Law Commission had been adopted, there would have been three codes: the Mahomedan law would have been codified, the Hindoo law would have been codified, and there would have been a third code, which would have been the *lex loci*, which will form a subsequent head of my examination.

2049. The Mahomedan law would have been modified in its principles?

The Mahomedan penal law would have been swept away altogether. There would have been one penal code, which would have superseded all the penal laws now existing.

2050. Would it have been applicable to Europeans?

Yes, to every body; and it was to be administered by all the Courts.

2051. What are the advantages which you expect to derive from a uniform code?

The removal of the evils of diversity, and more particularly of uncertainty. The present penal law of India is extremely uncertain. In the Presidencies there is the unreformed penal law of England, which is not a bad system as regards the substantive part of it; but it is a very difficult system to understand—to understand, it requires an antiquarian knowledge of the jurisprudence of England.

2052. You said that the same penal code was to apply to all persons in India: in the case of the crime of adultery, that is penal in India; do you propose to subject Europeans to penalties for that crime?

No, to remove all penalties.

2053. And from the natives too?

Yes.

2054. And, they would agree to that, would they?

Yes, I believe that was so provided in the code, that adultery was to be no longer penal.

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2055. Did the penal code enact the same penalties for all classes of persons in India?

No, the penal code applied to every body; but in the penal code itself, there were various provisions with respect to various classes in the country; but the code itself would be the penal law of the whole of India.

2056. Will you explain the nature of the diversities which exist in the penal code?

I was absent from illness during the greater part of the time occupied in preparing the penal code, and I cannot undertake to explain all its details.

2057. Are they such as would destroy uniformity; are there different punishments for the same offence according to their race and religion?

I cannot answer that. Imprisonment to a native of India is a very different punishment from what it is to a European. Imprisonment for a long period in an Indian gaol would probably be death to a European, not to a native. The natives of the lower classes rather like it if they are well treated; therefore, the penal code provides, that when a person, not of Asiatic birth, is sentenced to a long imprisonment, the Government may commute the sentence into transportation or banishment. All those diversities are taken into consideration. The penal code, I think, takes sufficient note of all those diversities.

2058. Then, the punishment laid down by the law for the commission of a crime by a European is different from the punishment laid down by the law for the commission of the same crime by a native?

Yes, it is formally different, in order to make it substantially the same: in order that the European may not be visited more severely than the native would be by imprisonment, the period of imprisonment of the European is shorter than that of the native.

2059. Does any diversity exist between the punishments imposed upon the different sects of which the native population is composed?

I cannot answer that. With regard to the provisions of the penal code, I should much prefer that the Committee should examine one of the authors of it rather than myself.

2060. Is the diversity of punishment for the commission of the same crime always in favour of the European?

By no means; there is no favour shown to Europeans in the code; there is no favour shown to any body; it is a thoroughly impartial code. I am not sure whether the form in which the difference is made is not merely by leaving a full discretion to the judge.

2061. Is the abolition of the district Courts, by which Europeans are tried, part of the plan?

The scheme of the Law Commission was, that a general Court of Appeal should be formed in each Presidency, called the College of Justice, consisting of the judges of the Supreme Courts and the judges of the Sudder Courts, and that that should be the general Court of Appeal from all the Courts in the country, civil and criminal. Then the Courts of First Instance all over the country would administer three codes of civil law, and the new code of criminal law, with an appeal lying to the general Court of Appeal.

2062. There would be but one law and one set of Courts for all India?

One system of law procedure for all India, formed principally by a combination of the different systems now existing, and containing within itself discretionary powers to meet diversity of habits and customs.

2063. Would it be possible to establish a general Court of Appeal, even without altering the law?

Yes.

2064. Would that be of great advantage?

Of very great advantage; I know no reason whatever why that should not be done immediately.

2065. You have stated that the members of the Supreme Court of India themselves expressed opinions in favour of a remodelling of the law upon the principles upon which you describe it to have been the intention of the Law Commission

mission to act, and in conformity, likewise, with the opinions of the late Lord Metcalfe; will you have the goodness to read the opinion expressed by the judges of the Supreme Court?

They say, "In this state of circumstances no one can pronounce an opinion or form a judgment, however sound, upon any disputed right of persons respecting which doubt and confusion may not be raised by those who may choose to call it in question; for very few of the public, or persons in office at home, not even the law officers, can be expected to have so comprehensive and clear a view of the present Indian system, as to know readily and familiarly the bearings of each part of it on the rest. There are English Acts of Parliament specially provided for India, and others of which it is doubtful whether they apply to India wholly or in part, or not at all." That occurred constantly while I was in Council. Doubts frequently arose whether English Acts applied or not. "There is the English common law and constitution, of which the application, in many respects, is still more obscure and perplexed; Mahomedan law and usage; Hindoo law, usage, and scripture; charters and letters patent of the Crown; regulations of the Governments, some made declaredly under Acts of Parliament particularly authorizing them, and others, which are founded, as some say, on the general powers of Government intrusted to the Company by Parliament, and, as others assert, on their rights as successors of the old native Government. Some regulations require registry in a Supreme Court, others do not; some have effect generally throughout India, others are peculiar to one Presidency or one town. There are Commissions of the Governments, and circular orders from the Nizamut Adawlut and from the Dewanny Adawlut; treaties of the Crown, treaties of the Indian Governments, besides inference drawn at pleasure from the application of the *droit public* and the law of nations of Europe to a state of circumstances which will justify almost any construction of it, or qualification of its force." That again was a topic almost constantly occurring in Council, as to the application of the European law of nations to the semi-subordinate powers of India.

2066. Will you refer, also, to the opinion of Sir Edward Ryan and of Sir Charles Grey?

Sir Edward Ryan said, in a minute dated 2d October 1829, "The great extension of the British territories since the Charter of 1774, has given to the Court a range of jurisdiction, which, at places remote from Calcutta, can only be considered a mockery of justice, if it be not the means of fraud and oppression. There can be no doubt, therefore, that difficulties and inconveniences are constantly arising from the undefined and uncertain state of the Court's jurisdiction, which are alike perplexing and harassing to the suitors, the judges, and all who are concerned in the administration of justice." The opinion of Sir Charles Grey, who filled the office of chief justice, as expressed in a minute of 2d October 1820, is as follows: "It may be doubted whether the present state of things, which I believe to be unexampled in the history of the world, can last much longer. Throughout the greater part of India there are to be found some individuals at least of four distinct classes, each of which is supposed to live under a distinct system of law, and to have different rights and different duties, but none of them accurately defined. There are persons born in the British Islands, Hindoos, Mahomedans, Asiatic Christians; and besides all these, there are in many parts foreigners and subjects of Great Britain who have been born neither in the British Islands nor in India, as to whom, I believe, there is no one who, consistently with usage, can say with any just confidence what law it is which applies to them. Hitherto it has been possible to make shift; but as the native Christians, British and colonial persons and foreigners, shall increase in numbers and pervade India—a result which must gradually take place—matters may be brought to such a pass as would scarcely be tolerable."

2067. Do you agree in the opinions there stated?

I do entirely; it is to remedy that last evil that the *lex loci* was devised by the Law Commission.

2068. Do those evils so described press, in your judgment, with any peculiar severity upon the classes of Christian subjects in India?

Yes; I think they press with peculiar severity upon those Christian subjects who are called East Indians, and also upon the Armenians, for they have really no

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no law applicable to them, there being no *lex loci* in India out of the Presidency towns. In the Presidency towns the English law is the *lex loci*; out of the Presidency towns there is none. The course of the Company's Courts is to inquire what is the law of the country of every man that comes before them. If a Frenchman comes before them, they consult the Avocat-general at Chandernagore, and get his opinion. If a Portuguese comes, they go to the Portuguese law authorities; and so with regard to all foreign nations. But with regard to the East Indians, they, not being entitled to the law of the Supreme Court, have no law at all.

2069. Have not they the law of their mothers?
I think not.

2070. Must it not have been under the law applicable to the mother that the East Indian you mentioned was condemned to imprisonment for adultery?
No; that was under the general Mahomedan criminal law, I imagine, to which all persons in the Mofussil, except British subjects, as they are called, are liable. If an Englishman had committed the same act, he could not have been touched. The condition of the Armenians, again, is a very peculiar one: the Armenians consider themselves a separate nation; but it is perfectly clear that in point of general jurisprudence all Armenians who are born in British India are subjects of the Queen, though not so in the narrow sense used in Indian legislation. They have no law applicable to them except an anonymous manuscript book, conjectured to be a compilation from two old codes, one enacted by King Johannes Bagration about the year 1046, and the other a code which was compiled in the beginning of the 13th century by an Armenian jurist, Mechithar Ghosh. The Mofussil Courts raked up that book so conjectured to be a compilation from those two old codes; but no translation, nor any copy of them, exists in India, nor are there any learned men among the Armenians to expound the laws contained in those authorities; indeed, till lately, we never heard of their existence.

2071. What law is administered to the Parsees?
The Parsees have customs of their own, but they are also partly in the condition I have been describing; they have, however, a good many customs of their own, and they have the Zendavesta, the Great Book of the Parsee religion; but I believe they do not appeal to it as a law book.

2072. Do these observations refer to civil procedure?
Not to civil procedure, but to civil substantive law; the law which regulates the rights of men in civil matters, not the law which regulates the mode of enforcing those rights.

2073. Will you state what further took place with respect to the plan which you proposed, for the reform of the English part of the Indian judicature?
I described to your Lordships the despatch which came out with the opinion of the law officers of the Crown, and which ended by desiring me to take Westminster Hall for my model—which I did not take for my model, certainly; I could not ever be persuaded to do so. That despatch enclosed the opinion of the Attorney and Solicitor-general, which opinion was in favour of a great part of the reforms that I recommended; but the despatch spoke sneeringly of my reforms, and sneeringly of their opinion.

2074. What was the date of it?
I suppose it must have been 1847. Then the Law Commission, being stopped in that course of reform, proposed to establish a Small Cause Court, with, however, a very high limitation—a limitation of 1,000 rupees, which is 100*l.*, which was to be administered upon the same principles as the Court of unlimited jurisdiction, which I have already described. It was admitted on all hands that a Small Cause Court was very necessary at Calcutta; there was one existing there, but a very inadequate one. The Supreme Court had interfered with its jurisdiction (I do not mean illegally), and contracted it very much, and made it very inefficient for the purposes for which the Court was established. The Law Commission had taken the opportunity of framing the Act for a Small Cause Court upon those same principles. That was sent home, and there came out a despatch from the home authorities, prohibiting us from passing any law upon the subject, without previous sanction. Now that order, I rather think, is illegal, for the statute which sets

sets up the Governor-general in Council to legislate for India, gives the largest possible powers, which I need not read, and specifies only two excepted cases in which the Legislature of India is not to pass a law without the previous sanction of the home authorities, this case not falling within either of those two exceptions.

2075. Will you state the exceptions?

The previous section says, that the Acts of the Council of India shall have the force of Acts of Parliament. Then comes the 46th section, which says, "That it shall not be lawful for the said Governor-general in Council, without the previous sanction of the said Court of Directors, to make any law or regulation whereby power shall be given to any courts of justice other than the courts of justice established by his Majesty's charters, to sentence to the punishment of death any of his Majesty's natural-born subjects born in Europe, or the children of such subjects, or which shall abolish any of the courts of justice established by his Majesty's charters."

2076. Those exceptions, in your judgment, leave all cases not recited in it in the unrestrained power of the Government of India?

I think that is perfectly clear; but I say it with submission, because I believe the Attorney and Solicitor-general gave an opinion to the contrary.

2077. What is the date of the despatch prohibiting you from passing any law upon that subject?

I have not the dates of the despatches; I think it must have been in 1847.

2078. Have the home authorities power to direct the passing of any Act upon any subject?

I think not.

2079. They may direct the repeal, but they cannot direct the passing of any law?

I do not know that they can direct the repeal, but they have authority to disallow any Act; if they think the Legislature in India is going on wrong, the regular way in which they remedy that is by disallowing its Acts. In the excepted cases, no Act can be constitutionally passed without the previous sanction of the home authorities. That appears to me to make it clear that the Court has no power to issue such an order; but I think also, upon general principles, that when once a Legislature is set up by Parliament, to dictate to it what it shall pass, and what it shall not pass, is altogether monstrous, and seems to be as bad as dictating to a judge whether he shall decide for the plaintiff or for the defendant.

2080. Was the prohibition in the form of a distinct order that you were not to proceed to legislate upon that subject, or an intimation that if you did legislate upon that subject, the power of veto would be exercised?

No; it was more than that. I have not got the prohibition here; but I have got another prohibition here, which applies to the *lex loci*.

2081. You consider that there is a difference with respect to this power between a Colonial Legislature and the Legislature of India?

Yes; I think there is a clear difference between the Legislatures of those colonies which are called Crown Colonies, and the Legislature of India. With regard to those colonies which have a regular House of Assembly and Council, a Colonial Parliament, there can be no doubt that the Crown cannot dictate to them; but with regard to Crown Colonies, no doubt dictation from home takes place; and I apprehend it is perfectly constitutional, because, though they are popularly called Legislatures, they are not in truth Legislatures; the Queen is the Legislature, and they are rather Councils of advice to the Queen. But the case is very different with a Legislature set up by Parliament, with full powers of legislation.

2082. Is there not this important distinction between a power of disallowance and a special power of prohibition against entertaining a question, that in the case of the exercise of the power of disallowance by the home authorities, the Legislature of India has full power to lay their measure, and their reasons for it, before the Crown; whereas in the case of the power of prohibition, all those necessary elements to a Government are withheld?

Undoubtedly; I have no doubt that Parliament intended to have the full

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expression of the opinion of the Indian Legislature upon all points upon which they might think fit to legislate, which, of course, would be prevented by this mode of proceeding; then this prohibition having come out to pass a law upon that subject, the next thing was a minute I made, remonstrating against this doctrine; setting forth that I thought it was only in the specially excepted cases that the home authorities had legally the power to tell us not to pass a law without its previous sanction; and that in all other cases I presumed, reading the charter as a lawyer, that the mode in which it was intended that they should exercise their power was by disallowing the laws we might pass.

2083. The authority of the Court of Directors, and the authority of the Governor-general in Council, as a Legislature, being equally derived from the Act of Parliament, and the Court having no power but that which the Act of Parliament specifically gives them?

Absolutely none; I protested against it in my minute; what became of my minute I do not know; I believe upon the receipt of my minute they took the opinion of the Attorney and Solicitor-general, Sir John Jervis, and Sir David Dundas; and the opinion of the Attorney and Solicitor-general, if I recollect rightly, was, notwithstanding the argument which I have now been urging, drawn from the statute, that as there was a provision in the old charters (and all the provisions of the old charters remained in force, except in so far as they were inconsistent with this new one), giving to the Court a general superintendence over everything, this power might under that provision be exercised. Now, I should say that that old clause was inconsistent with this new charter; we were, however, stopped in that way. There was existing at Bombay a Small Cause Court, which was held before the judges of the Supreme Court; the rules of procedure and the whole administration being entirely different from those which regulate their proceedings when sitting in the Supreme Court, they being, generally speaking, very equitable, very cheap, and affording easy access to suitors: Sir Erskine Perry, the chief justice of Bombay, proposed to remodel this Small Cause Court, and so to extend its powers as to enable it to administer law and equity together, upon the plan which had been recommended by the Law Commissioners, he entirely approving of that plan. He accordingly sent up a Draft of an Act to the Supreme Council, requesting that they would pass it; that again we immediately adopted. Lord Dalhousie was then Governor-general; he entirely approved of the principles suggested by the Law Commission and adopted by Sir Erskine Perry; and we read the Act a first time, and had a fixed day to read it a second time. Just before I left India, three days before we were to have passed the Act, there came out another order from home not to pass it: that was the end of these attempts to reform the law of the Presidency. But in the course of them there is one thing that occurred, and which I wish to mention, as illustrating the uncomfortable position which the Law Commission occupied. While the original measure was under discussion, just before I came into Council, while Mr. Amos was fourth member of Council, a proposition came to me through him; it was made privately, but, being upon an official subject, it is not to be considered as a private communication. A proposition came to me as President of the Law Commission; the proposition was, that before we presented our reports to the Government, we should let them know what were the recommendations which we intended to make. It was suggested that it might be very convenient—as no doubt it might be convenient; but the result evidently would have been to stifle the voice of the Law Commission when it happened to differ in opinion from the Supreme Council; I therefore was very unwilling to accede to it, and I read over the chapter with great care, and satisfied myself that the proposition was not constitutional; but I did not like to rely upon my own opinion on such a question, so I went to Sir Edward Ryan, who was then chief justice, and I asked his opinion. He said he thought that I was perfectly right; that it would be unconstitutional to accede to such a proposition, and I refused to accede to it: at that time I was President of the Law Commission. Immediately after that, Mr. Amos was put into the Law Commission as President. That is the whole history of the attempt to reform the judicature of the Presidency towns. That proposition was, in fact, very analogous to what the home authorities did in the other case; it would have stopped the voice of the Law Commission in the same way as the voice of the Council was stopped by prohibiting them from passing any Act upon the subject.

2084. Now,

2084. Now, as to the *lex loci*, will you describe what was done with respect to the *lex loci*?

The *lex loci* report was presented on the 21st of October 1840, and was sent home on the 17th of March 1843. I have already stated, that at the three Presidencies the English law is the *lex loci*, applicable to every body who is not a Hindoo or a Mahomedan; but except in the three Presidencies, there is nothing but personal laws: the Mahomedan law for Mahomedans, the Hindoo law for Hindoos, and no law for anybody else. When persons of any other nation happen to be there, as now frequently does happen, the Court endeavour to ascertain what the law of their country is as well as they can. Of course, they are very much puzzled to know how to administer that law; when, for example, one party is a Frenchman, and another party is not a Frenchman; and those difficulties will increase to an enormous amount when the number of Europeans becomes very great. The difficulty is felt very strongly with regard to the East Indians, who have really no law, because they are the Queen's subjects; they are not the subjects of any other Crown, and unless they have English law, which it is contended they have not, they have no law at all. And the same is the case with the Armenians, who have no law at all, except the book supposed to be founded upon those two antiquated codes, which has been raked up for the purpose of finding something which could be called a law, which should be applied to them. The object of the Law Commission was to remedy that very anomalous and very inconvenient state of things. I proposed that, the Hindoo law remaining the law for Hindoos, and the Mahomedan law remaining the law for Mahomedans, it should, in the first place, be declared, that as to all others, the law should consist of so much of the English law as is applicable to the condition of the people; but that the law should be reduced into a code, and that all the unnecessary technicalities, which are very multitudinous in the English law, should be got rid of; that all feudalism should be got rid of; that all the doctrine of tenures, and of conveyancing founded upon it, should be got rid of; and that the law of succession with regard to realty and personalty should be made the same; that is to say, that the English law of the Statute of Distributions which regulates the succession to personal property should be adopted for realty too. This law was adopted by the Council. Lord Hardinge, who always listened with attention to the Law Commission, had then become Governor-general, and Mr. Millett and I were both Council, who had both been Law Commissioners. Of course, therefore, the Council had a great disposition to attend to the recommendations of the Law Commission. Lord Hardinge wrote a very careful minute upon the subject, and we read the Act a first time.

2085. Have you a copy of that minute?

Yes; there is a copy of that minute in the book I have in my hand.

2086. What is the date of it?

It is dated the 18th of July 1845.

2087. What step was taken, after the Bill had been read a first time, upon the authority of that minute?

After the Bill had been read a first time, the Bill and the Report of the Commissioners were sent to the judges of the Supreme Court.

2088. Who were the judges at that time?

The chief justice was Sir Lawrence Peel; the second puisne judge was Sir John Grant, and the third Sir Henry Seton.

2089. What was the result?

The result was, that they highly approved of the principle of the measure. Expressing some differences of opinion upon matters of detail, they thought that it should be immediately enacted in the general form which we had recommended, and that then, after it had been so enacted, it should be reduced into a code, as we had also recommended. Sir Lawrence Peel and Sir Henry Seton were so good as to tender their assistance in reducing it into a code.

2090. Is it not the fact that there are few persons who have held the situation of chief justice, whose opinion upon such a subject might be more safely followed than that of Sir Lawrence Peel?

I think scarcely any. He is a very learned English lawyer, and by no means a prejudiced English lawyer, and a very able man. I was exceedingly delighted at

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this proposition, and at my request the Council directed a letter to be written to Sir Lawrence Peel and Sir Henry Seton, thanking them very much for the kind assistance they had offered to give, and accepting it with gratitude.

2091. What became of the Bill?
The Bill was sent home.

2092. Previously to its passing?
Previously to its passing; Lord Hardinge declared that he highly approved of it, and read it a first time; but he declined to take upon himself the responsibility of passing it into a law without referring it home. Then came this despatch from home, dated 21st May 1845: "Our Governor-general of India in Council. In our letter in this department of the 6th December 1843, para. 8, we signified our wish to be informed of your further proceedings on the subject of a *lex loci* for India. We have not received any subsequent communication from you on that subject; but as it has been brought to our notice that the Draft of an Act relative thereto has been published in the Government Gazette of the 29th January last, we think it proper to desire"—(this is the other case of that illegal course of proceeding, as I consider it, which I mentioned)—"we think it proper to desire that no law for the purpose of declaring the *lex loci* of India may be passed before being submitted for our deliberation." Our answer to that was, "We have the honour to acknowledge the receipt of your despatch in this department, dated the 21st of May last, No. 15, desiring, with reference to the Draft Act published on the 29th January last, that no law for declaring the *lex loci* of India be passed without first submitting it for your deliberation, with a full explanation of the reasons for the proposed enactment. We propose to address your Honourable Court more fully on this subject by a subsequent mail. In the meantime we would beg to refer you generally to the Report of the Indian Law Commissions, dated 31st October 1840, forwarded with the despatch from this department, dated the 1st February 1841, No. 2, describing the reasons for the enactment of a *lex loci* for British India."

2093. You do not advert there to the presumed illegality of the order?
No, we do not.

2094. Was that despatch of the Court of Directors in answer to your despatch forwarding the Act for their approval?
No; it seems that they had seen the Draft of the Act in the newspapers. The newspapers are always sent home to the Court, and I presume they had read the Draft Act, which had been published upon its being read the first time in the newspapers.

2095. And Lord Hardinge had in the meantime declined to proceed further till he had consulted the home authorities, and learnt whether it met the views of the home Government?
That is my recollection; then it ended with a number of minutes being written upon the subject by Lord Hardinge, by myself, and by Sir Herbert Maddock, and Mr. Millett, all of them in favour of the *lex loci*, except Sir Herbert Maddock; he opposed it; and there is a minute of mine in answer to Sir Herbert Maddock; and then comes this despatch, which is No. 22 of 1845: "As promised in our despatch of the 5th ultimo, No. 19 of 1845, we have the honour to transmit the accompanying correspondence with the judges of the Supreme Courts, and other authorities and minutes recorded by the members of this Government, respecting the Draft of the proposed Act published on the 29th January 1845, for declaring the *lex loci* of India. We also transmit copies of the memorials which we have received from certain Hindoo inhabitants of Madras, and from the Dhurrwa Seebha, and other Hindoos, also from several reverend missionaries in Calcutta, commenting on sections 11 to 13 of the Draft Act, together with our replies to the former of these parties. These replies have led to some discussion at this Board, which your Honourable Court will find in the minutes under transmission. It is our intention to separate from the Draft, regarding the *lex loci*, the three sections above referred to, and to embody them in a separate enactment." That brings me to those three sections which were inserted in the *lex loci*, at the request of Lord Auckland, I think; they were three sections for the alteration of the Hindoo and Mahomedan law in a very important particular; the Hindoo and Mahomedan law

law both provide, that upon a man becoming a convert from those religions, he shall forfeit all his property, and generally all civil rights: this was a very great grievance, and we all thought a great injustice. Three sections were introduced into the *lex loci* Act, declaring that those provisions of the Hindoo and Mahomedan law should no longer be administered in our Courts, and that drew forth the only case that I ever remember of a remonstrance from the Hindoos. A remonstrance came from Madras, and another from Calcutta; and Lord Hardinge requested me to draw up an answer to the remonstrance, which I did, and which was adopted by the Council unanimously, except that Sir Herbert Maddock was still dissentient; and that is now the manifesto of the principles which the Government of India meant to adhere to upon this matter touching the principles of the Hindoo and Mahomedan law upon this subject: it sets forth the grounds on which the Law Commission were justified in making such recommendations, and the Government of India in adopting them.

2096. Who was the remonstrance from?

One from a body of very respectable Hindoos at Madras, and another from a body of Hindoos at Calcutta: the answer was given to the Madras Hindoos before the Calcutta remonstrance came in.

2097. Will you read the most important parts of that answer?

"The memorialists declare that 'such a spoliation would be a virtual breach of faith on the part of the Indo-British Government, and incompatible with the engagements of former Governments.'" We answer, "The principle which guides the Government of India is, that all the religions professed by any of its subjects shall be equally tolerated and protected; the Government acts upon this principle, not on account of any engagement it has come under (for no such engagement exists), but because it is just and right so to act. If the Government were to deviate ever so widely from this principle, it could not justly be reproached with breach of faith, though it might justly be reproached with partiality and intolerance. It is just and right to tolerate a Hindoo in the exercise of his religion, and to protect him from any loss of property, on account of the profession and exercise of his religion; but the Hindoo religion is not the only religion which the Government is bound to consider; the Christian religion, the Mahomedan religion, and all others which exist in the country have claims (quite independent of the fact that one of them is the religion of the Government itself) to the same impartial protection; and if a Hindoo becomes a Christian or a Mahomedan, it is just and right that he too should be protected against any loss of property on account of the profession or exercise of the religion he has adopted. If the Government refused to protect such a person against the loss of any property to which, but for his change of his religion, he would be entitled, the Christian and Mahomedan communities would have just cause of complaint, and the Government, consistently with its own principles, could give no answer to their complaint." "The memorialists speak also of the proposed law as one which would 'compel the relations of the convert to reward his apostacy.' If this were a correct description, the law would be justly open to objection: the law should provide neither reward nor punishment for a change of religious opinion; it should leave every man to the dictates of his understanding and his conscience, unbiassed by any motive of interest; and this is what the proposed law does."

2098. What was the end of it?

The law was not passed then; but it has been passed since.

2099. Was any reply made on the part of the remonstrants to the paper which you have read?

No reply; I believe the justice of the doctrine was acquiesced in.

2100. What proceeding took place in respect to that portion of the *lex loci*?

We told them, "It is the intention of Government, for the more convenient arrangement of the new law, to remove the three sections from the *lex loci* Act, and to place them in a separate Act;" consequently, they were placed in a separate Act, and sent home; and as long as I remained in India we heard nothing more about them. I do not think the home authorities took any notice of them; but now I understand they have been passed, and those parts of the Hindoo and Mahomedan law are no longer administered in our Courts.

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2101. What became of the *lex loci* which you have described as having been sent home after its first reading, with the approval of the Governor-general?

The *lex loci*, so far as I know, has been slumbering; I am not aware that anything further has been done with it; those clauses were taken out of it which ought never to have been put into it, as they were not strictly applicable to the subject of the *lex loci*.

2102. Was what remained of the *lex loci* ever passed into a law?

No.

2103. The remainder of the *lex loci* was that which Lord Hardinge agreed to read a first time; but he declined proceeding to read it a second time without authority from home?

Yes.

2104. And that authority was never given?

That authority was never given; it still remains in abeyance.

2105. Is there any other practical result of those clauses of the Charter Act which established the Law Commission, in the way of alteration of the laws of India, except the passing of that portion of the *lex loci* to which you have last adverted?

Yes, there are some few things; there is the abolition of slavery.

2106. Was not that rather an Imperial Act?

No, it was done by the Council of India upon this report which I hold in my hand; not, however, that this report recommended so sweeping a measure as hat which the Council of India afterwards adopted.

2107. Does any slavery in a modified form still exist in India?

It exists in abundance; it is a system which is generally agreeable to both parties. The slave likes to be sure of a subsistence and protection, as well as the master likes to be sure of his services.

2108. Then, has that law been inoperative?

I will not say that the law has been inoperative; for every now and then cases, in which the master desired to enforce his rights, used to come into our Courts, and in those cases the law has been operative, by preventing them from coming into our Courts; but there is a great mass of slavery existing *de facto*, to which no just objection can be made as long as both parties look on it as an advantage.

2109. Does it involve, in practice, the right to sell the slave?

I should think not; in India slavery has generally a voluntary origin; it was generally a contract between a poor family and a rich family, binding upon the heirs; the substance of which was, that the poor family were to serve the rich, and that the rich family were to support the poor, and to protect them, as well in sickness as in health.

2110. What is the operation of the law for the abolition of slavery?

To prevent the few cases, in which the master used to come into Court to enforce his rights, being brought into Court.

2111. Was there any general assertion, that after a certain time slavery should no longer exist in India?

It was an assertion, simply, that no rights arising out of the institution of slavery shall be enforced in our Courts.

2112. But not making it penal to hold slaves?

No; but if, under the present law, a man were to flog his slave, the slave might come into Court, and bring an action of trespass; and there would be no answer to it; it would be punishable as an assault.

2113. Has the law had any effect upon the sale of slaves?

I am not aware.

2114. Is it not the fact, that in the south of India slaves were never sold, except with the land?

I believe so.

2115. Was that the case in all parts?

No;

No; I remember in some parts of Behar the evidence was most extraordinary; there were men living in a state of freedom, and nobody exercising any rights over them; but they were people who belonged to a slave tribe, and upon whom the taint of slavery had descended from their ancestors; and there were cases in which those men were sold; they were sold at a very cheap rate, because it was a great chance whether the purchaser would ever get hold of the man he had bought.

2116. If the person of the slave was once secured, the right was enforced?
Then the right enforced at that time would have been recognized by our Courts.

2117. But it is so no longer?
It is so no longer.

2118. Therefore, as far as regards the British territory, the right of slavery is extinct?
The legal right of slavery is entirely extinct; but, *de facto*, slavery is in existence.

2119. Would the master have no power of compelling any service on the part of his slave?
He would have no power; because, if he were to attempt to compel the slave by imprisonment or punishment, the slave would have a right to go into Court, and bring an action of assault, and the master would not be able to answer that the plaintiff was his slave.

2120. Would any British subject in any part of British India, if he became the purchaser of a slave, fall under the law which makes it felony to purchase a slave?
I think not: there was a British subject, a Mr. Brown, who was a large proprietor of slaves in Malabar; and that was after the English Abolition Act; the English Abolition Act does not apply to British India.

2121. You have said that the slaves were only sold with the land; are they ever bought in one district and transported to another?
Yes, sometimes that was done; but the state of slavery was different in different parts of India. In Malabar, I believe, they were all *adscripti glebæ*, and bought and sold with the land; and Mr. Brown, whom I mentioned, possessed slaves of that kind, exercising the rights of a master over them. He had a pepper plantation in which he employed them.

2122. Are the Committee to understand, from what you stated before respecting the opposition that was made to any inquiry being instituted into the state of slavery in the districts where it prevailed, that in consequence of that, no inquiry did take place by the authority of the Government of India?
No; when we found that the Council of India was not disposed to permit us to go into the districts in which slavery prevailed, Assam and Malabar for example, we then took the evidence of such persons as we could find in the neighbourhood of Calcutta. We took evidence from the owners of slaves themselves and others who had resided in the districts in which slavery was most common. We also had Hindoo lawyers upon the law, and the practice of the law, as between master and slave; we took a great deal of evidence. I believe it is the only specimen of evidence of that kind which has been taken in India, which forms the Appendix to our Report.

2123. You have stated that the British Abolition Act does not apply to India; but would not the Act against slave-trading effectually provide against the introduction of African slaves into India?
No doubt; the voyage would be piracy.

2124. Have there not been some proceedings taken at Bombay against British subjects who have been directly or indirectly concerned in bringing in slaves from the Imaum of Muscat's territory?
Yes; there is no doubt that for British subjects to bring slaves from any part of the Imaum of Muscat's territory into India is penal.

2125. By "British subjects" do you mean Europeans?
I should say that if an East Indian, who is a subject of the Queen, were to engage in such a transaction, he would be punished.

 2126. When

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2126. When you say that British subjects have engaged in the slave trade at Bombay, do you mean natives?

I cannot undertake to say.

2127. Do you recollect that, by a regulation of the Governor-general in Council, the English law was made applicable to slavery in Scinde?

Yes, I recollect that.

2128. Were those regulations as to slavery extended also over Scinde?

Lord Ellenborough extended the English law over Scinde by a special Act of his own, he being the Governor-general, with the full power of the Governor-general in Council.

2129. And over the Punjaub in the same way?

The Act of the Council of India does not extend over the Punjaub.

2130. Does it require a specific Act to extend it over each successive acquisition of territory?

Yes; but that subject opens a large question with regard to all other laws as well as that respecting slavery. The law is in a very anomalous condition indeed. The question arose in a late case with regard to Serampore. Serampore was a Danish settlement on the Hooghly, and was lately ceded to the Company by the Crown of Denmark. It so happened that at the time that this cession took place, there was no legislative quorum of the Council of India, and consequently a difficulty arose. There were apparently no means of making the law of Serampore what it ought to be, so as to be administered by the Company's judges, and also what it ought to be according to the treaty; for the treaty specified certain things that should be done with regard to the law of Serampore. We had to consider how it was possible to get over this difficulty; I thought, but with great diffidence (for it is an extremely difficult point of constitutional jurisprudence), that the power which exists in the Queen, independent of Parliament, of legislating for newly-acquired territories, must be considered as delegated to the existing Executive Government in India, together with the general delegation of the Sovereignty of India, and upon that we proceeded; and there was a proclamation of the Executive Government issued, stating what was to be the law of Serampore. The Company's judges had very great doubts about whether it was right to obey this proclamation, the proclamation not being a law, but so the matter was settled; at least, that was the last I heard of it.

2131. They acquiesced?

I believe they ultimately acquiesced: it was of no very great importance as regarded Serampore, because it is a very small place, inhabited either by Europeans or by Bengalese, who are very submissive; but the same is the condition, I apprehend, of the Punjaub. Unless that doctrine of mine is good law (which Sir Lawrence Peel, who is a very high authority, said, when I consulted him as a private friend, that it was not), I do not see on what ground any legislation by the Executive Government can go on constitutionally, either in Scinde or in the Punjaub.

2132. Would not that apply to the largest portion of India?

It would only apply to such parts as have not been brought under the legislation of the Council of India.

2133. Is there any definition of the geographical boundaries over which the legislative power of the Government of India extends?

No, there is not. That is one great difficulty that is constantly arising from the condition of the native Princes; it is always very doubtful whether we can legislate for their territories, or whether we cannot. The last Charter Act, by giving a definition of the legislative power, has in that respect narrowed it. When we passed the Thuggee Acts, there is no doubt that what we did was *ultra vires*. For the sake of convenience, we overstepped the power.

2134. In what respect was it *ultra vires?*

It was necessary to provide for the offences of Thuggee in other territories, such as Oude, and in the Nizam's territories; they were very glad that Thuggee committed there should be punished; but the words used for that purpose were so large, that if any crime of Thuggee was committed in France by a French subject, it would be punished by the Indian Courts, which would be contrary to the law of nations.

2135. Was

2135. Was not that Act passed while Lord Ellenborough was the Governor-general?

I do not remember; there have been several Acts relating to Thuggee. Some of the Acts were passed while I was fourth member of Council, and I always felt the great difficulty that we were under.

2136. Practically there would be this limitation, that the law would only apply to those districts in India where we had administrative Courts established?

But supposing that Thuggee were carried on upon the frontier of Oude, and that part of the persons engaged in it were inhabitants of Oude, and the crime was committed beyond the boundary, those persons would be triable in our Courts, and, I believe, would be executed.

2137. If they could get hold of them?

Yes; but it might be said that the Indian Legislature had overstepped its authority, and that the men must be acquitted; and it would be very inconvenient if, in the eyes of the natives, there appeared to be any conflict between the Government of India and the judicial authority.

2138. Have there not been in most cases diplomatic transactions between the Government of India and the Sovereigns of the native States, by which the Government of India were authorized to exercise those powers in the native States?

I believe there have; but even supposing they had got the permission of the Sovereign, and supposing him to be an independent Sovereign, I do not apprehend that any Sovereign can grant to another a power to legislate in his territories; if he wishes another Sovereign to exercise that power, he must cede the territory.

2139. Is it not the case in Oude and in China also?

The distinction I take is this: there is no doubt the Emperor of China may grant to the Queen the right to legislate for and to punish in China the Queen's own subjects for offences committed in China; but I apprehend the Emperor of China cannot grant that power to the Queen over the subjects of France, or Austria, or Prussia; that would be a cause of war if the Queen were to legislate for and to punish a Frenchman in China.

2140. In the case of the Thuggee Act, you say that the native Princes were anxious that the law should be applied within their territories; but in the case of this law, which has been recently passed, with respect to the conversion of persons from one religion to another, is that Act applicable in all the native States of India?

No.

2141. Does it extend to the non-regulation provinces?

It extends to the non-regulation provinces.

2142. Does it extend to Assam?

Yes.

2143. And to Scinde?

I doubt whether it extends to Scinde. Lord Ellenborough's own law, which he passed of his own authority, was applicable to Scinde.

2144. Does it extend to the Punjaub?

I should think not; and nothing analogous to Lord Ellenborough's law has, I believe, taken place in the Punjaub.

2145. You stated that the inconvenience from the want of a *lex loci* would be more strongly felt in proportion as the number of Europeans in India increased?

Yes, certainly I did; a great number of persons have gone into the interior of India as indigo planters, and in connexion with steam navigation companies, and a great variety of commercial enterprises of that kind.

2146. Not being European-born subjects of the Queen?

Most of them are.

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2147. That inconvenience would not apply to them?

No, the inconvenience of having no law would not apply to them; the Court would administer the English law to them. This inconvenience would apply to them, that the English law is very little known by the Mofussil Courts. That would be remedied by this Act, because they would then have before them a complete code of the law which they are to administer.

2148. Would you propose that this code should be at once proclaimed over the whole of the Indian dominions, or that it should be proclaimed over different places successively, after due inquiry as to its fitness for each part of the country?

I would recommend that it should be proclaimed at once as to the whole, because all the necessary distinctions are contained in the Act itself.

2149. Would not it in many cases require some time to enable the gentleman who is to administer the law to make himself master of it?

They do administer the law now, but they administer French law to the Frenchman, and Spanish law to the Spaniards. Instead of that, they would have nothing to do but administer this code. No doubt they must learn it. I will beg leave to read an extract from a minute of mine, which was in answer to Sir Herbert Maddock's minute in opposition to the *lex loci*. Sir Herbert Maddock says, "As to the necessity, in the first place, of declaring the substantive law of the place in these territories, which the Law Commissioners say is doubtful, but which I should rather say is no matter of doubt, as it is never referred to or inquired after in the Company's Courts, the arguments adduced by the Commissioners have failed to convince me that such a measure is necessary. Those arguments might be strengthened if the basis on which they rest was more clear and better defined. We want a precise definition of what is meant by the negative term 'every person not being a Hindoo or Mahomedan;' without this it must be all vague conjecture who are the people, and what are their numbers, that we are making the subjects of our legislation." That is Sir Herbert Maddock. My answer is, "Now it is of the very essence of a *lex loci* that the definition of the persons subject to it (except in the rare case where it includes every person in the country) should be negative, and to say that you will not have a negative definition is simply to say you will not have a *lex loci*. In all countries and in all ages the persons subject to the *lex loci*, when there is one, are all persons in the country who do not fall within any of the positive descriptions of classes for whom special provision has been made. Who are the persons subject to the *lex loci* in England? All persons in England who do not fall within the excepted classes of foreign ambasadors, Jews, &c. It is always the excepted classes that are defined, or described in positive terms. It is no doubt important in all countries that great care should be taken to make the proper exceptions. In this country, it is pre-eminently important, because the classes to be excepted are so numerous, and so deserving the benevolent attention of the foreign Government which has undertaken to rule and protect them. The exceptions made by the Draft Act are, first, Hindoos and Mahomedans: this exception is perhaps too unqualified; perhaps the Hindoos and Mahomedans ought only to be excepted in respect of so much of their law as is now administered to them under the statutes and the regulations, and brought under the *lex loci* for the rest; secondly, all persons professing any other than the Christian religion in respect of marriage, divorce and adoption; thirdly, all races and people not known to have been ever seated in any other country than British India in respect of any law or usage immemorially observed by them, and now enforced by the Courts. This last qualification, which perhaps ought to be more distinctly expressed in the Act, is necessary, lest we should unawares be giving a sanction to laws and customs which the Courts do not now enforce on account of their immorality, or for other reasons. The third exception will, I apprehend, give to 'Budhists Jains, the many aboriginal tribes of Gouds and Bheels, &c. which occupy an extensive region in the centre of Hindoostan, the Mugs of Arracan, and the Seiks of the North-West districts,' all the exemption from the *lex loci* which it is right they should have."

2150. Who were the members of the Law Commission when you were first associated in their labours?

I was appointed at home; I was the only person sent out from England; when I got to India, there was no member from Bengal; Sir William Macnaghten

naghten was appointed, but declined to act; Mr. Macleod was the member from Madras; Mr. Anderson, who is now Governor of Ceylon, was the member from Bombay; and Mr. Millett, who afterwards became a member of the Commission, was the secretary.

2151. What have been the proceedings taken with respect to any vacancies in the Law Commission?

When Mr. Anderson and Mr. Macleod resigned, their places were filled up by Mr. Borradaile for Bombay, and Mr. Daniel Eliott from Madras; Colonel Young was also a member for a short time, appointed in India: when Mr. Millett was made a member of the Law Commission, he having been first secretary, Mr. Sutherland was appointed secretary; after that time several vacancies occurred from time to time, and have never been filled up, which I think is another illegal proceeding. It is true that the statute does not say that the number shall always be kept up to the extreme number of five; but it is clear that the statute did not intend that the Law Commission should be allowed to perish for want of members; and, therefore, I think, though this is not a direct contravention of the letter of the law, it is what jurists call a proceeding in *fraudem legis*.

2152. What is the present state of the Law Commission?

The present state is utter extinction.

2153. Without one member?

Without one, as far as I know: when I left India, Mr. Eliott was a member and secretary, and I myself was President; that was the whole of the Law Commission, consisting of a President and secretary, without any member; since that, I believe, it has perished altogether.

2154. It has been stated to the Committee, that the fourth member of the Legislative Council still acts as a Law Commissioner, and that he is joined by another member of the Council?

I was not aware of that; I should like upon that subject to read to your Lordships a minute of my own, arising out of a proposition made by Sir Herbert Maddock (I do not know whether under direction from home or not), to remove Mr. Daniel Eliott, who was the only remaining member of the Law Commission, from the Law Commission, and to attach him to the legislative secretariat of the Government of India; upon which I wrote this minute: "The appointment of Mr. Eliott, as officiating secretary to the Government of India, in the legislative department, he still continuing to perform his duties as Law Commissioner, might, I think, be attended with some advantages; but this does not appear to be what the President contemplates;" (Sir Herbert Maddock was then President of the Council of India, Lord Hardinge being then absent); "at any rate I am compelled to differ from him in what he lays down as the basis of his proposition. The President says, 'So long a time has elapsed since we received any instructions from the home authorities on the subject of the Law Commission, and its continuance or dissolution, that it must be presumed not to be their intention to fill up the vacancies which have taken place in the number of its members;'" so far Sir Herbert Maddock. Then I go on: "Now the length of time here spoken of seems to me to lead to the contrary presumption. The Court of Directors say in their letter of 29th November 1843, 'It is probable that an application will be made to Parliament at an early period of next Session for authority to put an end to the Commission. In the meantime we desire that you will not fill up any vacancy which may occur amongst its members, and that you will be prepared to give directions for closing the Commission if the wisdom of Parliament should concur in that measure.'" That was all perfectly legal and constitutional, I think, but what followed was not: "Not only was no application made to Parliament at an early period of the Session of 1844, but that Session, and the two following, have been suffered to pass away without any such application. From this it appears to me an irresistible inference that the Court of Directors have either ceased to desire the dissolution of the Law Commission, or are satisfied that the wisdom of Parliament will never concur in that measure. The direction, therefore, to this Government not to fill up any vacancy in the meantime, that is, between the 29th of November 1843, and the early part of the Session of 1844, can, I think, only be considered as remaining in force during that interval, and as much longer as the unexecuted intention of applying to Parliament may reasonably

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reasonably be presumed to subsist. And it is at any rate manifest that neither this Government nor the Court of Directors is competent to defeat the intentions of Parliament by suffering the Law Commission to expire for want of members. If, therefore, the proposition of our President is to remove Mr. Eliott from the Law Commission, I conceive it to be beyond our power to do so, even by a Legislative Act; and if it were within our power, I think it would be highly inexpedient. I agree in all that Mr. Millett has said upon the subject, and I beg, in addition, to observe that there is now a proposition of mine before the Council, made on the 13th of November last, that the Law Commission be directed to prepare a scheme of pleading and procedure, and a set of forms of indictment adapted to the definitions of crimes contained in the principal chapters of the penal code. The Council has not yet come to any vote upon this proposition of mine, and until they do so, they cannot well decide upon the present proposition, supposing it really to be a proposition for removing Mr. Eliott from the Law Commission."

2155. Practically speaking, has the non-appointment of members to the Commission operated as a repeal of that section in the Act of Parliament which relates to the Law Commission?

It has.

2156. Independently of the various propositions which you have detailed as having originated with the Law Commission, and as having been disposed of in the way which you have stated, were there further duties which you contemplated, and which you still contemplate, as coming within the range of the Law Commission, and capable of being fulfilled with benefit to the people of India?

Yes; we contemplated, in addition to the penal code and the *lex loci*, a reform of the judicature of the Presidency towns (these were all only recommended, none of them have been adopted); what we contemplated was, that the three laws, the Mahomedan law, the Hindoo law, and the *lex loci*, should be reduced into the form of written codes; and that one scheme of procedure, and one judicial establishment, as set forth in our model Civil Court, and in our model Criminal Court, should be made general over the whole of the country; in that scheme it was proposed, that a College of Justice, as we called it, which was to be a general Court of Appeal, consisting of the Queen's judges and the judges of the Sudder Adawluts, should be established as a general Appeal Court from the whole of the Courts of each Presidency; that was the general scheme which the Law Commission would have worked out if it had been suffered to exist.

2157. Among other subjects, did you contemplate the question of training candidates in India for the judicial office, in view particularly of the extension of judicial functions to the natives of India?

In answer to a letter addressed to us from Lord Ellenborough, we gave our opinion as to the mode in which the civil servants should be trained, and particularly as to the way in which those who were candidates for the judicial office should be prepared for it; that will be found in our answer to Lord Ellenborough.

2158. Do you consider that, with reference to the administration of judicial functions in India, it is important that the completion of the education of civil servants in India should be especially directed to their qualification in those respects?

I think, certainly, there should be a much more marked separation than there is between the judicial service and the other services; I think men should be set apart from the beginning for the judicial service; I do not see how they can ever make competent judges, unless they devote their lives to it; in no other country, I believe, is it expected that a man should be competent to the administration of justice without doing so.

2159. Do you think that the training in the revenue department is of no advantage with reference to the exercise of the judicial functions?

Upon that question there is a great diversity of opinion; I differed from my colleagues upon that; they all thought that the training in the revenue service was so advantageous, that even the judicial servants should go through it. I thought

thought that though it was highly desirable that they should have that knowledge, they could not acquire it except at the sacrifice of knowledge more important to a judge, the study of jurisprudence: your Lordships will find that discussed in our answer to Lord Ellenborough.

2160. In selecting the native judges of India, is there any regular system of examination upon the Hindoo and Mahomedan law?

Yes; but it is by no means so complete an examination as it should be. Upon that, Mr. Millett and I presented a report to the Government, in which we stated what we thought should be the nature of the examination, and that no judge should be appointed without having passed through it.

2161. Are there native colleges for the study of the native law?

Not for the study of the native law; but there are colleges at which European literature and science are studied, and in those we propose to introduce the penal code. If the Government of India would so far sanction it as to say that they intended to enact it, the principal of the Hindoo College was ready to give lectures upon it. I should likewise have proposed that those three codes of law, when enacted, should also be the subject of lectures.

2162. Are there any institutions in India where the native systems of law are taught?

There are institutions where the Mahomedan law is taught.

2163. Do they teach the Mahomedan law as laid down in their own code, or as modified by our regulations?

I imagine they do both.

2164. You do not accept diplomas from them as sufficient to justify you in the selection of judges?

Not as sufficient. Lord Hardinge passed a resolution to this effect: that there should be an annual examination held of all the most advanced students in the Government colleges, and also in other colleges, who chose to come up and compete, and that a list should be made of those who came up to the standard. The Council of Education were requested to frame a standard, which they did, and a very high standard too, and the resolution was that all who came up to that standard should be put upon a special list, and that in future when any candidates applied for an office, either judicial or of another kind, those upon this list should be preferred, unless some special reason could be assigned by the officer making that appointment why another person should be preferred. That resolution appeared to be an extremely good one, but I believe it has not been acted upon with consistency.

2165. Was there not a minute of Lord Hardinge's with reference to the qualifications of the natives for appointments?

That was the minute of which I am speaking; Lord Hardinge having frequently attended the colleges, and having seen how very intelligent and how very far advanced in literature and science those young men were, passed this resolution which I have just mentioned.

2166. With respect to young English writers who go out, are they called to fill offices in the magistracy soon after their arrival in India?

Yes. Our letter to Lord Ellenborough stated, as one great evil now existing, that the judges of the Court of Appeal had scarcely any judicial practice before they were made judges of appeal.

2167. Have not some of the anomalies and difficulties which existed in the application of the English law to British subjects in India, been remedied by separate Acts, which would have been remedied by your proposed codification?

Yes.

2168. Was there not a very serious question raised with regard to the law of marriage in India?

Yes; that was only lately remedied by an Act of Parliament.

2169. Was that a case in which the common law of England was held to be applicable to all British subjects resident in India?

Yes; and marriages by dissenting ministers were not recognized: an Act of Parliament has set that right, I believe.

 2170. Was

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2170. Was it not supposed that the Legislative Councillor assisting the Government of India would be able, even supposing there was no Law Commission continued, to make either those reforms which you have mentioned, or any requisite reforms in the jurisprudence or in the system of administration of the law in India?

I do not know whether that has been supposed by any body; it certainly was not supposed by me. I would not undertake to be the Legislative Councillor and the Law Commission too.

2171. You think that, even considering the works which the Law Commission have already executed, the Legislative Councillor would not be sufficient to complete the rest of the work, with the aid of the materials with which he was supplied?

He would be much more sufficient, under those circumstances, than he would have been in the beginning; but still looking at the codification of those three laws, the Mahomedan law, the Hindoo law, and the *lex loci*, I do not think that one man occupied with the current business of the Legislative Councillor could do that; I should be glad at another opportunity to set before your Lordships what the duties of the Legislative Councillor are; and I think it will be seen that they are arduous enough to occupy his entire attention.

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned till To-morrow, One o'clock.

Die Martis, 8° Junii 1852.

THE LORD PRIVY SEAL in the Chair.

Sir HERBERT MADDOCK is called in, and further examined as follows:

2172. DO you think it desirable to change the seat of the Government in India?

No, I am not aware that it would be desirable to remove it from Calcutta.

2173. You think it is better there than anywhere else?

I think, all circumstances taken together, it is the most suitable place.

2174. Is it a convenient place for communication with the different minor Presidencies?

I think it is as convenient as any other place that could be selected; it is not centrical, but the communication with the other Presidencies, with the exception of Madras, may be made within a week by land, and there is now a communication by steam twice a month to Madras; and, at all times, Government has at its disposal steamers, which in case of emergency may be used for communication with Madras, making the voyage in about four days.

2175. Have you any observations to make with regard to the divisions of the minor Presidencies, Bombay, Madras, and Agra, or as to the working of the present system?

With regard to the territorial boundaries of Madras and Bombay, I am not sufficiently informed to offer an opinion on the subject; apparently, geographically considered, there might be a more convenient division of territory; but I am not aware that any complaint has been made of inconvenience arising from the present partition. With regard to the other two minor Presidencies, if they are hereafter to be distinct Presidencies, namely, Bengal and Agra, and if to Agra is to be added the whole of the recent acquisitions in the Punjaub, in that case it would probably be most convenient to add to the present Bengal division some of the eastern portions of the territory which is now attached to the Agra Presidency, so as to include the province of Benares.

2176. In that case, would you transfer the government of the North-Western Provinces to Delhi?

To some more centrical situation than Agra.

2177. Would you alter the form of government of that Presidency, which is now a lieutenant-governorship, and adopt that of Madras and Bombay; or would you leave it as it is at present?

I am not aware of the necessity of giving it, in that case, the same form of government as that which exists at Madras and Bombay, provided it is always placed under the control of an experienced and efficient officer, such as the present Lieutenant-governor; but otherwise, if a governor is to be appointed for the Presidency of the North-Western Provinces in the same manner as the governors are frequently appointed from England for the Presidencies of Madras and Bombay, in that case, I should think it would be expedient that the government of the North-Western Provinces should consist of a governor and of

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members of council, on the same footing, or a similar footing, to that which a present exists at Madras and Bombay.

2178. You are well acquainted with the working of the present Indian Government at home?

I cannot say that I am well acquainted with it.

2179. Are you aware of any defects in its working that you wish to state to the Committee?

From what I have been able to understand of the system, and the working of the home Government of India, nominally under the Directors of the East India Company, but virtually subject in all respects to the control of the India Board, it has appeared to me that the system might be usefully modified so as to simplify the transaction of business, without prejudice to the authority of the Board of Control, or injuriously diminishing its responsibility. As the Government is at present constituted, all the business in all departments connected with the civil and military administration of India is supposed to be conducted by the Directors of the East India Company; and all matters of political nature are supposed to be managed by a Select Committee of the Court of Directors; but, in reality, the Court of Directors are unable to issue any order of their own which has not had the previous sanction and confirmation of the President of the Board of Control; and they are under an obligation to issue any orders, whether according to their own judgment or contrary to their own judgment, which may be dictated to them by the Board of Control; and though the correspondence with Indian governments on subjects of a political nature, and touching peace and war, is all carried on in the name of the Secret Committee, the members of that Committee are in fact only the organs of that member of the Cabinet who is held responsible to Parliament for the administration of India. It has only lately, I believe, been popularly understood that such is the real state of the powers apparently exercised by the Court of Directors and their Secret Committee; and it has struck me that if any important alteration is made in the present footing which exists between the authorities of the Board of Control and the Court of Directors, the political correspondence with India might as well be carried on directly in the name of the President of the Board of Control, either through or not through the Secret Committee. And I think that with regard to all the ordinary business of the administration of India, more might be left to the discretion of the Court of Directors, independently of the control of the Board of Control. Supposing them to be precluded, as at present, from deciding on any question of importance, or introducing any new principle or organic changes of system, without previous reference to the Board of Control, and that all their proceedings are constantly open to the supervision of the Board, and, if necessary, that abstracts of all their proceedings are periodically submitted to the Board, there can be no advantage, that I can perceive, in attempting further to control the Court's authority over the civil administration of India.

2180. Is there not this advantage in the present system, on the supposition that the persons forming the Secret Committee of the Court of Directors are really acquainted with the affairs of India, that in the event of the President of the Board of Control directing them to send a letter in a certain sense to India, if they differ from his views, they have an opportunity of remonstrating and stating why that letter should not be issued; whereas, if there were no Secret Committee, it would not be necessary for the Board of Control to send them the intended letter, and there would be no opportunity of obtaining a second opinion with respect to the propriety of issuing it?

I did not propose to abolish the Secret Committee or its intervention; and as to a limitation of the interference of the Board of Control, I alluded only to matters of detail in the administration, in which I thought it would be unnecessary that the Board of Control should ordinarily exercise any interference.

2181. Would there not be great difficulty in drawing a line of demarcation between those matters that were important, and those that were not?

I should think not; and I have been informed, that in fact there have been instances where the President of the Board of Control has, of his own authority exempted the Court of Directors from submitting some branches of their business and some of their orders to him for confirmation.

2182. Supposing

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2182. Supposing the persons in the Secret Committee of the Court of Directors, at the time when the letter was issued through them to India, approving of the intentions of Lord Auckland to prosecute the war in Affghanistan, had entertained objections to the intended operation, and had stated those objections, is it not possible that the statement of those objections might have tended very much to alter the views entertained by the Board of Control?

Certainly; but the alterations which I have ventured to suggest do not go the length of supposing that the President of the Board of Control would not have the assistance of the advice of the members of the Secret Committee of the Directors.

2183. In what way do you propose that he should advise with them, if not by sending to them the letters which he proposes to transmit to India?

It appears to me that virtually the members of the Secret Committee become the colleagues and coadjutors of the President of the Board of Control in carrying out his views, and in advising him upon the subject.

2184. Does not the origination of measures rest with the Court of Directors?

By law it would appear that every act, political and administrative, in India, proceeds from the Court of Directors. Everything is done in the name of the Court of Directors; treaties are made, and war is declared in the name of the Court of Directors, and the Court of Directors are as ignorant of the transactions as any private individual can be. What I meant to hint was, that the present form of the Government of India by the Court of Directors is a fiction, and I wished simply to suggest the possibility of getting rid of that fiction and substituting some form which is more consistent with the fact.

2185. Is it a pure fiction at present; practically, does not the opinion of the members of the Secret Committee of the Court of Directors exercise considerable influence over the despatches upon diplomatic and political matters in India?

They are the authors of them; we only know that the despatches are signed by them, but I alluded rather to the Court of Directors. I wished to point out the fiction that everything in India is done in the name of the Court of Directors. The Court of Directors are held responsible in public opinion for every act of the Government proceeding from the home authorities; whereas, in all questions, important and unimportant, of a political nature, the Court of Directors are actually ignorant of the correspondence on the subject, and have nothing whatever to say to the Government of India in that respect.

2186. Your observation with regard to the present form of government being a fiction, applied solely to the Court of Directors, and not to the Secret Committee, which is really operative with reference to the political and diplomatic affairs of India?

That I imagine must depend on circumstances and on individuals; and I believe that the actual relation which exists between the Board of Control and the Secret Committee of the Court of Directors, was popularly unknown until a recent declaration made by Lord Broughton before a Committee of the House of Commons, in which he took upon himself the exclusive and personal responsibility for one of the most important transactions which has occurred in the recent history of India.

2187. When you say that in public opinion the Court of Directors are responsible, what do you mean by "public opinion?" Do you mean public opinion in India or in England?

I spoke of the public understanding; that it was popularly supposed that all those important affairs proceeded from the Court of Directors, in whose name they appear, both in England and in India.

2188. As regards the other point to which you adverted, that of making a division of the business between the Court and the Board, and leaving to the undivided responsibility of the Court certain portions of the business, would there not be an almost insuperable difficulty in drawing that line? and even if it were drawn, might there not be many occasions on which, even in matters apparently of very slight importance, the intervention of a body so thoroughly impartial, as regards all persons in India, as the Board of Control really is, may be of very great practical advantage?

I dare say that generally it is of great advantage; but I conceive that without

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sacrificing that advantage, it would be practicable to leave to the Court of Directors an independent authority of acting without reference to the Board of Control to the extent pointed out, by retaining the right of revision and of receiving appeals to the Board of Control.

2189. But, then, the Board of Control must be made cognizant of what is done, in order to be able to exercise that power of appeal?
Not if it was open to the parties interested to appeal to the Board of Control?

2190. You propose that the Court of Directors should have undivided control of certain portions of the Indian business?
The details only.

2191. If that be the case, would it not be necessary to have somebody answerable for that portion of the business which was entrusted solely to the Court, answerable to Parliament, and answerable, in fact, to the public?
To the public the Court of Directors are even now considered answerable; they have the credit or the odium of all the most important measures, however little concern they may have had in their origin.

2192. But is there, in fact, any tangible responsibility whatever attached to the Court of Directors; can they be deprived of their office; can they be punished in any way; can anything be done, supposing matters to be misdirected by them; is there any real and positive responsibility?
Not under the present system; but if they are not responsible for anything, why carry on the Government in their name?

2193. Does not the fact of the number of the Court of Directors, a body of 24 gentlemen, make it perfectly impossible to have any real responsibility?
The number appears inconvenient and unnecessarily large for any other purpose, except that of absorbing a great mass of patronage.

2194. And changing as they do annually, would it not be practically almost impossible to give anything like the responsibility to which you allude, when every year six go out and six come in?
I stated when I alluded to any practicable change in the present system, that I only imagined it would be expedient to give an uncontrolled power to the Court of Directors over the direction of details of an ordinary description.

2195. Is it not the fact, that in practice now the despatches are prepared at the India House, where all matters of detail are looked into and examined, and reported upon, and where it is the business of the Court, in fact, to be masters of the subject, and that they submit their views to the Board of Control, and that matters of small detail are left to the discretion of the Court?
Which makes the function of the Court of Directors somewhat equivalent to that of the clerks in any public office in relation to the head of the office.

2196. Is there any great advantage which you suppose would be derived from the change you propose in the mode of transacting business; namely, by leaving all matters of detail to the Court of Directors?
I think there would be this advantage, that business would be simplified, and labour and expense would be greatly lessened. In one single particular, the saving of labour and expense might be of real importance. Every paper, of however little moment in every case, however little important, that is laid before the different Governments in India, is sent to England in triplicate. These papers must amount in weight to several tons a year, and the expense of paper and copying must be enormous. I would prohibit the transmission of any part of these masses of documents, excepting what it is essential to send to the home authorities; and if the Board of Control no longer required all these details, one-third, if not two-thirds, of this labour and expense might, at once, be saved.

2197. Have you any observations to make with regard to the election of the members of the Court of Directors?
With regard to the election of the Directors, as long as the present system endures, of nominally though not really entrusting the Government of India to the East India Company, it may be suitable to such a state of things, that some of the Directors, if not all of them, should continue to be elected by the proprietors of East India stock; but as the Court of Directors always contains in its members several officers who have served in India in the civil and military and other

other departments, and it is of course expedient that officers of Indian experience should always have seats in the Court of Direction, it appears to me that it would be highly expedient that whatever number may be fixed hereafter for the Court of Directors to consist of, some portion of them should not be elected by the proprietors of East India Stock, but should be nominated by the Minister of the Crown, and the existing Court of Directors conjointly; and I conceive that one great advantage of a change of system of that description would be this, that the officers who would naturally be selected for such nomination would be those most prominent and distinguished for their services in India, who, if nominated immediately upon their return from India, would bring all their knowledge and experience fresh for the advantage of the Court; whereas now such officers, on their retirement from India, and becoming candidates as proprietors of East India Stock for election, as Directors have to wait in many instances several years before they succeed in obtaining a seat in the Direction; the Court loses the advantage of their services when they would be most valuable, and the Government loses the opportunity which it would thus have of conferring distinction on the most eminent of its Indian servants. I would limit the duration of such nomination seats in the Direction to four or five years.

2198. Do you not consider that there are advantages at times to the East India Company itself in having in its Court of Directors individuals who, though they may not possess practically Indian experience, are connected with the great financial and monied interests of the City of London?

I think it must be of advantage that such a body as the Court of Directors should embrace in its numbers men not only of great commercial experience, but men of all positions in life, who can bring talent and knowledge to assist in the Government of India; not particularly those connected with the monied interest, but others equally.

2199. Do you not think that that consideration applied more when the Company was a commercial body, than it does at present, when it is only a political ruling body?

That is the reason why I would say that not exclusively the monied interest should be represented in the Court of Direction. It must of course be advantageous to a great body like the Court of Directors that it should be open to receive men of talent and experience, to whatever profession they may belong.

2200. Does it require a very considerable canvass to obtain a seat in the Board of Direction?

A very considerable, and I believe a very unpleasant canvass.

2201. In what respects do you think it is particularly unpleasant; is there anything more humiliating in canvassing the proprietors of East India Stock than in canvassing the possessors of a Parliamentary franchise?

Not that I am aware of from experience; but I have heard of circumstances of a disagreeable nature attending applications for the votes of proprietors of East India Stock.

2202. Will you state what those circumstances are?

I have heard of proprietors of Stock, when canvassed for their votes, attempting to make a bargain with the candidate, and of a corrupt use being made of the privilege of votes, whereby future appointments in the Indian services may be obtained.

2203. Is that carried on to any considerable extent?

It is notorious that the practice prevails; to what extent I cannot say.

2204. You never were a candidate for a seat in the Direction?

I never have been a candidate.

2205. Were you deterred by the reports which reached you upon that subject?

In a great measure.

2206. Has the unpleasantness of the canvass increased since the system of voting by proxy has been introduced?

I am not aware.

2207. You are aware that the Governor-general is nominated by the Board of

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Directors, subject to the approval of the Government, and that he can be recalled by the Directors alone, without the approval of the Government?

Yes.

2208. After stating, as you have done, that the Government of India is virtually subject to the Board of Control, and not to the Court of Directors, do you consider that that power of the Court of Directors is advantageous or otherwise?

I have expressed generally a decided opinion, that it is an inconsistent and anomalous position of affairs, that the Court of Directors, though they are not empowered by law to exercise any other independent functions of Government, and are in every other respect, excepting their patronage, subject to the control of an officer of the Crown, should possess the power of recalling a Governor-general, contrary to the will of the Crown.

2209. Does not the fact of this power existing on the part of the Court of Directors, give greater effect to the right which they have of remonstrating with reference to any instruction which the Board of Control may order them to issue?

I cannot say. Those distinguished officers who have been Presidents of the Board of Control alone are aware of the effect of such remonstrances as may have been made to them.

2210. You have had a considerable opportunity of examining the effect of the mode of passing laws in India; will you have the goodness to state to the Committee the result of your observations?

I was requested, when I was examined before, to submit a copy of one of the Acts passed by the Government of India, upon occasions of the Governor-general leaving the presidency. Here is an Act, and here is the Resolution which follows the Act.

2211. Will you have the goodness to read the Act?

The same is read, as follows:

An ACT for providing for the Exercise of certain Powers by the Governor-general during his Absence from the Council of India.

WHEREAS it is expedient that the Governor-general should visit the North-Western Provinces and other parts of India, unaccompanied by any member of the Council of India; it is enacted as follows:—

1. During the absence of the Governor-general from the Council of India, it shall be lawful for the Governor-general alone to exercise all the powers which may be exercised by the Governor-general in Council, except such powers as may by a resolution of the Governor-general in Council be exercised by the President in Council during the absence of the Governor-general, and except the power of making laws and regulations.

2. This Act shall commence from the day on which it shall be notified by an order published in the official Gazette that the Governor-general has quitted Calcutta for the purpose of so proceeding as aforesaid.

2212. Are those Acts all in the same form?

Precisely. Then this resolution describes the division of business which took place upon the occasion.

The same is read, as follows:

The Governor-general in Council has resolved, that the following portions of the business of the Government of India shall be conducted by the President in Council during the absence of the Governor-general:—

1. All business of routine and detail in the Military department, excepting such as may arise within the North-Western Provinces.

2. All business in the Secret and Foreign departments arising within the territories subject to the Government of Bengal and the Presidency of Madras; all business arising in Mysore and Coorg, and all business of routine and detail in the said departments arising within the Presidency of Bombay.

3. All business in the Home and Finance departments, excepting business arising within the North-Western Provinces.

4. Provided that all appointments which are made by or require the confirmation of the Governor-general in Council shall be made and confirmed by the Governor-general.

Subordinate

Subordinate Arrangements.

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1. Upon all occasions of special importance in the management of the several branches of administration to be conducted by the President in Council, which are not of a nature to require immediate orders, as well as on all propositions involving any essential change in the system established in any departments, the President in Council will consult with the Governor-general before coming to a final decision.

2. Except in urgent cases, drafts of Acts will not be promulgated for general information without the assent of the Governor-general to such promulgation.

3. The President in Council will direct the following papers to be furnished to the Governor-general for his information:

(1.) Copies of all letters from the President in Council to the Honourable the Court of Directors and the Secret Committee.

(2.) Abstract of the proceedings of the President in Council.

(3.) The originals or copies of abstracts of the proceedings of the subordinate Government requiring special notice, and copies of any orders passed on the perusal of them.

(4.) The originals or copies of letters from Boards, or from the Sudder Dewanny or Nizamut Adawlut, involving the character or conduct of the covenanted servants of Government, which may be submitted to the President in Council by the Deputy-governor of Bengal.

(5.) The Governor-general will direct copies of all letters from himself to the Honourable the Court of Directors and the Secret Committee to be furnished to the President in Council for his information.

(6.) The Governor-general will forward to the President in Council copies of the whole of his proceedings, so that the record may be made at the Presidency of the Governor-general's proceedings, and the series be kept complete by incorporating them with those of the President in Council for transmission and report to the Court of Directors.

4. Respecting letters addressed in all departments by the subordinate governments to the Honourable the Court of Directors and the Secret Committee, the Government of Bombay will be requested to transmit copies of all such letters to the head quarters of the Governor-general, who, after perusal, will forward them to the President in Council, and the governments of Bengal and Madras will be requested to transmit copies of all such letters to the President in Council, by whom, after perusal, they will be forwarded to the Governor-general.

2213. You have been a good deal employed in relations with native states; do you think it would be an advisable policy for us to take every rightful occasion of absorbing the native states, or would you rather prefer to maintain the native states as an essential part of our system, as they were similarly maintained by the Mahomedan rulers of India?

Upon that point I conceive that the Indian Government has originally, and up to a recent period, acted upon an erroneous principle. The Government, on almost all occasions of conquering or otherwise acquiring possession of new territories, has recognised the dependent, principalities, and all alienations of the public revenues to Jaghiredars and other holders of great fiefs existing within such territories; and it has recognised them because they had been granted or created by previous Governments, whether those Governments were Mahomedan or Hindoo, and the British Government has itself, on very rare occasions conferred any such fiefs from itself, or attempted to create any such body of influential and powerful landowners as those alluded to. The error that I conceive the Government committed, is in ever having acknowledged those rights as resting only on the munificence or favour of former rulers of the country. I think that, on the conquest of territory, we should have called in all grants of former Governments, and that in every instance in which we deemed it just and expedient to confirm a tenure, we should have done so by the issue of a new grant from the Governor-general in Council of the whole or a part of it, so that there should have been no great landholders in India, such as those dependent Princes and Jaghiredars, who did not hold directly from the British Government. Now that we have for so many years, after adopting the system of confirming all former grants to people of this class, allowed them to obtain a prescriptive right, I cannot conceive that it would be consistent with justice or expediency that we should take any steps that would infringe those rights. There is one instance that I will allude to as exemplifying the course pursued by the British Government; it is the case of Scindia. In 1829, Dowlat Row Scindia, the prince with whom our treaties had been concluded during the administration of Lord Wellesley, died. He had no issue; he had no relations alive nearer of kin to him than could be found by searching up six or seven generations of his own ancestors, who had been unimportant potails or village

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landholders, and his right was simply derived from his father, Madhojee, having held office under the head of the Mahratta empire, the Peishwar, and having had charge of a portion of the Peishwar's forces that were located in Malwa and Khandeish, and during the dissensions which led to the breaking up of the Mahratta empire, being so posted, Madhojee Scindia, the father of Dowlat Row Scindia, established himself with sufficient strength in those territories, and others which he had conquered, to induce the British Government, during the administration of Lord Wellesley, to acknowledge Dowlut Row Scindia, the son of Madhojee, as the responsible sovereign of those territories. Now, at his death without any heir, according to my ideas of the position that the British Government ought to have assumed, and to have maintained in India, the whole of the territories in his possession, the land revenues of which exceed a million sterling a year, lapsed, as a lapsed fief, to the paramount power, the British Government. But the British Government of that day, instead of assuming the right which, I conceive, had devolved upon it, thought proper to treat with the widow of Dowlut Row Scindia, and to permit her to adopt a child from among those distant relatives of the deceased, and to declare it as the future sovereign of Dowlut Row Scindia's dominions. That is an instance of which many others might be adduced to show the mistake which I conceive the British Government in India has been under in supposing itself precluded from asserting on all such occasions the paramount power for the advantage of the state, and, if occasion for it exists, from distributing territories so placed at its disposal among its own adherents, or for the creation of other new fiefs in favour of distinguished natives who have served it with distinction and benefit.

2214. Do you think that on that occasion the Raj of Scindia could have been put an end to, and the territory absorbed by the British Government, without an insurrection from one end of the country to the other?

Most unquestionably. The people of Scindia's country would have been generally well pleased if the British Government had assumed the control of the territory; and I believe there was not a single state in India that did not expect us, and consider that we were entitled, to take possession of the territory; and Dowlut Row Scindia himself evidently expected the same, and on his deathbed consigned his widows to the protection of the British Government.

2215. Do you recollect the assumption of the Raj of Khytul?

Yes.

2216. Do you recollect that there was a very strong feeling against the assumption by us of the territory, and that there was an insurrection and a very unpleasant occurrence, the repulse of a small British force which went to take possession under a British officer?

That was one of the protected states, and there was an opposition got up by some of the wives of the late chief.

2217. But the result was the repulse of the officer sent to take possession, and a considerable loss of life, and the necessity of collecting a force of several thousand men for the purpose of taking possession of the country?

I think that was an accidental circumstance, and one not at all affecting the general question. I believe it is perfectly well known that the prince to whom I allude, who certainly was one of the most important potentates at the time in India, never supposed to the hour of his death that the British Government would have done otherwise than assert its paramount supremacy on his demise.

2218. Do you recollect what occurred upon the death of the chief in possession of Indoor, when it was considered that that might have been taken advantage of by us as a lapse?

Yes.

2219. Do you recollect that the officer in charge of Indoor most strongly remonstrated against it, and showed the impolicy of acting upon our supposed right; and that in consequence of that representation the Government did not proceed to take possession?

Yes; British officers resident at the courts of native princes are very apt to take part against the Government on these occasions, by allowing their own feelings in favour of those among whom they are living to influence their judgment; but what I meant to state as my opinion was, that now we have established

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the practice of acknowledging those rights. I do not see how we can venture to depart from what we have established as a practice. I merely raise objections to the British Government having so far mistaken its proper position as the paramount power in India as ever to have admitted of this practice.

2220. But you would only have had the power asserted in cases of lapse, where there was no natural heir?
Decidedly so; where the tenure had been confirmed.

2221. Would you recommend, with regard to any new acquisition, that we should adopt a new principle?
Certainly; I should recommend it, because I believe our former practice to have been contrary to the usage of India; and that previously to the establishment of the British power, no conqueror, or usurper, or creator of a new dynasty, was expected to confirm, or did as a matter of course confirm, as we have done, the grants of any previous dynasty; he would have considered himself entitled to resume them all, and at his pleasure would have re-confirmed them in whole or in part to their former possessors, or annexed them to the lands of the state.

2222. Do you mean grants to private individuals?
I mean grants generally.

2223. Would not it have caused great hardship, in case of the conquest of a country, to have resumed all the grants of land that had taken place under the previous Government, however long they might have existed, and however many generations might have been born since the fief was given?
The dynasties of India have been so short-lived, that there have been few instances that have fallen under my notice of many successions to such property.

2224. Was it not a fact that in Odeypoor, and in the whole of Rajpootana, and in other parts, many native Princes, now no longer in existence, were suffered to exist during the Mahomedan Empire, and even had large territories bestowed upon them; that it was part of the system to place the Emperor at the head of a body of feudal sovereigns?
I conceive that the Princes of Rajpootana as a body were too powerful to be ousted even by the Emperor of Delhi. There is no doubt that the Emperors of Delhi not only confirmed them, but also confirmed many other Hindoo Princes, both in the Deccan, in Mawla, and in Bundlekund, and in other quarters; but those Hindoo Princes, when so confirmed by the Mogul Emperor, generally received grants of their territories from the Crown, and held them as fiefs under the Crown of Delhi.

2225. Do you not think that if it were generally understood throughout India, in all the territories of all the native Princes, that the Government of India adopted as a principle, that on every occasion on which (they being the sole judges both of the fact and of the law) they should declare that a lapse of sovereignty had taken place, they would appropriate the territory altogether to themselves, it would create very great apprehension and great discontent in the territories of the greatest part, if not the whole, of those native states, and very much shake our position in India?
I do not think that the assumption of a right which was already established by custom, if not by law, would have had such an effect heretofore, and now, even though a different practice has been introduced under our rule, I am of opinion that the abstract right may be maintained without much risk of alarming the native states. But though I would assert the right, I am no advocate for a general absorption of the native states. Whatever territorial possessions they are allowed to retain, I should wish to see held direct from the British Government.

2226. You think that our assumption of the rights of sovereignty in such cases would be acquiesced in most readily by the inhabitants, provided we did not exercise the power of resuming all grants made by previous Governments?
There exist innumerable small grants of land held by different tenures, and for various purposes, to which my remarks do not apply. I am merely speaking of those important alienations of territory which carry along with them almost unlimited power over the lives and property of the subject.

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2227. Is not our whole system of government so different from that of the native states, that even if all the rights of property were maintained, still a necessary effect of our assumption of the sovereignty of a native state would be that many persons would be deprived entirely of subsistence who obtained it honourably under the native prince?

A change of Government must have such an effect. That class of persons who are maintained as soldiers and military retainers, and as retainers of the court of a native prince, will be the principal sufferers.

2228. You recollect that when an arrangement was made at the beginning of the year 1844 with the state of Gwalior, a body of 3,000 irregular horse was maintained by the state of Gwalior under that treaty, for the very object of giving occupation and the means of subsistence to those who had been accustomed to derive them from that state, and so avoiding the danger of throwing them adrift upon India?

Yes; and the same was done in the Mysore and in the Mahratta States. It has been our general practice everywhere.

2229. Are you not aware that when this assumption of the territory takes place, it is usual for the Indian Government to direct that as many as possible of those who have been employed under the old Government should be employed under the British Government?

I take it for granted that this would be the course pursued.

2230. At what period of our Indian Empire would you have begun to act upon the principle which you think ought to have been adopted?

During the period of Lord Wellesley's administration the proper time may be thought to have arrived. Previously to that, during the administration of Lord Cornwallis particularly, our conduct had been the reverse of what it afterwards was; we deprived most of the small local officers of Bengal of their offices and their emoluments, in order to create zemindars, or landlords, upon a large scale, giving them, what they never possessed before, a recognized territorial right over the whole of the immense provinces of Bengal. That I conceive to have been an error in the opposite direction, and equally opposed to the practice of the country, as the grants of these zemindars are irrevocable.

2231. This system you would have begun in Lord Wellesley's administration?

I conceive that the proper time to have asserted it was when Lord Wellesley had established the British supremacy from sea to sea; and from Cape Comorin to the Himalaya.

2232. In exercising this power of resumption, do you consider that we should only be exercising a power which had always hitherto been exercised by the native sovereigns?

Yes; the same power which was invariably exercised, I believe, by both the Hindoo and the Mahomedan sovereigns.

2233. In carrying out the suggestion which you have made (which is one rather relating to times past), should you consider it necessary to transfer the possession of the territories to other parties, or do you include in your suggestion the possible continuance of the same possession, but with a title derived from the British Government?

I contemplate both; because I conceive that, in many cases of virtual escheat from default of heirs, it would have been a wise and popular course to refrain from enriching the public treasury by the revenues of the whole of such lapsed estates, and that we should rather have availed ourselves of such opportunities of liberally conferring the whole, or small or large portions, according to circumstances, of territories thus placed at our disposal, on relations of the former possessors, or on eminent and deserving native gentlemen of rank and influence. The mistake which I conceive to have been made in our general policy in this respect is, that disclaiming our real right as paramount over the former princes and feudatories of the Empire, who are attached to the British Government by no ties of loyalty, gratitude, or affection, we not only permitted them generally to retain their landed possessions granted for services to former Governments, but even in many cases treated them almost as independent powers, and that by this line of policy we have neither added to the general resources of the state by the

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partial or total annexation of such territories, nor gained the advantage of having a body of loyal and influential adherents in the Princes and Jaghirdars who would owe all that they possessed of rank and prosperity to the British Government.

2234. Even assuming that the possessions had been continued in the hands of the old possessors, but continued under a new British title rather than by the sufferance of the ancient one, do you think that advantages would have been attained to British authority by that substitution of a British title for the former one?
I think so, certainly.

2235. Have any Jaghires been granted in India since the time of Lord Lake?
Very rarely, and to no great extent.

2236. With regard to the question of the power of the British Government of India to resume the sovereignty of any state where a direct heir fails, do you consider that in doing so, any injustice would be done by reason of any violation of the laws of India with regard to adoption?
I think it must altogether depend upon circumstances. There have recently cases arisen in which much has been urged against such resumption of territories, as in the case of Sattara; and the opinions of eminent men varied very much, whether in that case the right of adoption should have been allowed to be exercised or not.

2237. You have seen a document purporting to be a petition from the Hindoo inhabitants of Bengal and other parts of India against the enactment of the *lex loci* for altering the law of inheritance?
Yes.

2238. Have you any observations to make upon that subject?
Yes; the papers connected with that subject were recently placed in my hands, and I feel that the petitioners have great right to complain on two points: first, that under the present system of legislation any law of the nature of the Act complained of, affecting most materially their religious feelings and prejudices, should be passed by a legislature composed exclusively of English gentlemen, without giving the Hindoos, who almost exclusively are affected by this law, any voice in the matter, or even opportunity of expressing their sentiments and their objections with full security that such objections would meet with due attention; and in the next place I think, that if the legislature of India is to possess such a power as it has exercised in this case, the passing of a law affecting most materially the interests and the religion of the Hindoos of Bengal and all other parts of India, without any free and open consultation or communication with them, then there should have been provided by the Imperial Legislature some means of hearing any appeal which parties dissatisfied with Acts of the Indian Legislature might think proper to bring forward.

2239. Are you aware that in consequence of that very petition which you hold in your hand, the subject was again referred to the Law Commission; and that a reply was given by the Law Commission to the objections stated in that petition, which was communicated to the very petitioners themselves, and that to that reply they have made no rejoinder?
No; they did rejoin in a memorial.

2240. Will you have the goodness to state at what time the reply was given, and at what date the rejoinder to that reply was made?
This is what is here said: "The memorialists to Lord Dalhousie also showed that, although Mr. Bushby had endeavoured to answer the objections against such proposed Act, which had been made by the Hindoo public, both of Madras and Bengal, against the proposed *lex loci* Act, in the memorials presented by such two bodies to the Supreme Government, such proposed Act was never passed into a law; and Clause 9, Regulation 7, of 1832, continued as it had theretofore been a dead letter, till again awakened into life by the publication in the Government Gazette of such proposed Act, which having since been passed into a law, in manner and under the circumstances hereinafter mentioned, your memorialists now carry their respectful protest against it, and this their appeal to your Honourable Court, which the Legislature has made, in the first instance,

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the appellate and protective power and guardian of the rights of Her Majesty's Indian subjects against the wrongful or injudicious legislation of the Supreme Council of India. To the more detailed reasons for their objections to this encroachment upon their law, their just rights, and their religion, your memorialists respectfully beg to refer to the memorial above mentioned, presented to the Marquis Dalhousie, against the passing of the draft into a law, of which a copy is annexed hereto in the Appendix. To the contents of that memorial they earnestly solicit the parental and protective consideration of your Honourable Court, as embodying the sentiments of your present memorialist; a repetition here would be unnecessary and improper. Of that memorial the Supreme Government of India, in the plenitude of its power, did not deign to take the slightest notice, but on the 26th day of May 1850 the draft was passed by the Legislative Council of India, and became part of the British law of India."

2241. What is the date of that?

"The Memorial of the Hindoo Inhabitants of Bengal, Behar, and Orissa, to the most Noble the Marquis Dalhousie," in a letter to the officiating secretary to the Government of India, dated 25th January 1850.

2242. What is the date?

There is no date to the memorial; but it is sent with a letter from six gentlemen in Calcutta, dated the 25th of January 1850. What they now say is, that notwithstanding that memorial, the Act was passed without Government deigning to notice the objections which were contained in that memorial.

2243. Do you know that of your own knowledge, or do you only take it from that book?

I learn so from these printed papers. I had left India previously to this occurrence.

2244. When you spoke of English gentlemen making that law, to whom did you refer?

I referred to the members of the Legislative Council in Calcutta.

2245. Who were they at that time?

They were, at the time, Mr. Bethune, Mr. Lewis, Mr. Currie, and Sir John Littler.

2246. The Government of India is now a Christian government; formerly it was a Mahomedan Government. Did the same law apply to conversions from Hindooism to Mahomedanism, which has applied to conversions from Hindooism to Christianity; did the Mahomedans allow Hindoos who became Mahomedans to lose their property, as Christians have hitherto allowed the Hindoos to lose their property who became Christians?

Without admitting that the Government of India can fairly be denominated a Christian Government, considering that it is a Government over a very small number of Christian subjects, and upwards of 100,000,000 of Hindoos, I am not aware that in any of the Mussulman native states at this present day there is any abrogation whatever of the Hindoo laws regarding ancestral property and inheritance on occasions of any members of a Hindoo family deserting their religion, and embracing that of a Mahomedan.

2247. The question was, whether under the old Mogul Empire, natives of India would have been subject to the forfeiture of their property for turning Mahomedans?

The Mahomedan law was no doubt in favour of the convert, but I am not aware that during the existence of the Mogul sovereignty that law was rigidly enforced. I should think not, from what I believe to be the case in the existing small dynasties which are now under the Mahomedan Princes.

2248. Do you suppose that in Oude or in Allahabad, for instance, a Hindoo, on being converted to Mahomedanism, would forfeit his property?

No infringement would, I believe, be allowed of the Hindoo rights of the members of the family to which the converted Hindoo belonged.

2249. Is it your impression that in those parts of India in which there are now Mahomedan governments, those governments do allow Hindoos who are converted to Mahomedanism to lose their property under the old Hindoo law?

No

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No instance has ever come to my knowledge, though I lived for some years under Mahomedan governments, where a Hindoo converted to the Mahomedan religion was allowed to retain any rights of property which he had possessed exclusively as a Hindoo. I would add in explanation, that I understand this question and answer to apply only to cases of ancestral property held in family partnership. Where a solitary Hindoo possesses a house and other property, and has no brothers and no relations sharing with him, he would, on conversion, of course retain it as his own; and even though some of his estate might have been originally dedicated to the maintenance of a temple, or for the performance of religious ceremonies, he would, I imagine, retain the whole, and dispose of it as he pleased. If the individual members of a Hindoo family lived separately and independently of one another, the objections made to this Act would not have been preferred; but Hindoo families ordinarily live under the same roof, and hold their family property in common, and this property may be not only of a secular nature, as lands, houses, merchandize, &c., but also lands and funds dedicated to religious ceremonies and observances, either at some public temple or in the domestic chapel to be found in all considerable mansions, to be performed in common for all the members of the family; and the expenses of all these religious observances, including fees to Brahmins, alms to the poor, &c., are defrayed out of the joint stock belonging to the family. The effect of this law is, that when a Hindoo, being one of four brothers, becomes a Christian, he not only claims his share of that part of the secular property which may have been recently acquired, as, for instance, the fourth part of a zemindary or the fourth part of an interest in a shop or a trading establishment, which there would be no objection to his obtaining; but he claims, under this law, a fourth part of all that which has been dedicated by the ancestors of the family for the maintenance of the Hindoo religion in the family.

2250. But under the old law, before it was altered by this Act of Lord Dalhousie's, he would have lost not only his share of the property set aside for the maintenance of the Hindoo worship, but also his fourth part of the secular property, which you say there is no objection to his continuing to hold?

No, I do not say he would have lost that under any circumstances; I do not believe he would.

2251. Do you not believe that, prior to the passing of the Act of which those petitioners complain, in the event of a Hindoo becoming a Christian, he would have sustained a forfeiture of his property?

I doubt whether he would have been deprived of his share of the property, which is clearly not ancestral, as, for instance, his share of a zemindary, or of a banking or a trading establishment, or of any other property not inherited.

2252. Is that clearly your recollection?

I do not know an instance in point, but I conceive that such would have been the decision, if such a case had been tried in a court of law.

2253. Your objection to the law is on the ground that it affected property of a religious character, and not merely property of a secular character?

That is the main ground of my objection.

2254. Then, if a distinction had been drawn between the two, you would not have objected to a law enabling a Hindoo convert to retain his secular property after his conversion to Christianity?

I think such a law might have been framed as would have done justice between the parties, without risk of outrage to the feelings and prejudices of the Hindoos, if the Hindoos had possessed the influence to which they are entitled in the Legislative Council when measures of this nature are under consideration. I made a suggestion to this effect in a minute dated 9th June 1845, and proposed to except from the rights which a convert may recover, all such as attach to the performance of religious rites, and such as are purely of a domestic nature.

2255. In that pamphlet which you have produced, is the objection to the law confined to its operation with respect to property that partook of an ecclesiastical character, or is the objection against the whole law in question, which comprehends both secular and ecclesiastical?

In that pamphlet (*vide* Appendix), a copy of which I beg permission to submit, a distinction is drawn between ancestral property and property acquired

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or not inherited. They do not claim that a convert from the Hindoo religion should forfeit, in consequence of his conversion, his share in any property except the ancestral property; but they argue that all ancestral property in a Hindoo family involves the discharge of duties which can only be performed by a Hindoo; that in fact the right of inheritance is established by proving a right to perform those duties, such as the shradh, &c., just as the right to inherit entailed property in this country is established by the proof of primogeniture; that on a voluntary partition of ancestral property taking place among Hindoo brothers, each brother takes his turn in some of the religious duties attached to the tenure of the property, and therefore that if one of them voluntarily incapacitates himself from the performance of those duties, he forfeits his right to any share in the property to which they are attached.

2256. Did you not record a minute upon that subject?
I recorded several minutes on the subject.

2257. Can you favour the Committee with a copy of that minute?
I will obtain copies from the India House, and submit them.

2258. Are you aware whether the objection in that minute was taken solely on the ecclesiastical ground, or whether you took the more general objection?
I objected generally to another Act, called the *lex loci* Act, which contained provisions similar to those which are now under consideration, and I objected generally to the provisions which this Act contains, but especially as it seemed to violate the religious feelings of the people.

2259. Practically speaking, there were two Acts; the one a general *lex loci*, comprehending certain clauses which were inserted at the suggestion of Lord Auckland, and which were afterwards passed as a distinct Act; and the other, the *lex loci*. Does not this petition refer altogether to the passing of those separate clauses as a distinct Act, and not to the *lex loci*, which did not become law?
Certainly.

2260. With respect to the separation between Hindoo secular property and ecclesiastical property, is the whole property held in common, or is there a distinct line of separation drawn between the property that is ecclesiastical, and the property that is secular?
I presume that as long as no differences exist in a family, the whole property of all kinds is held in common. A line of distinction would, I should think, be difficult. What is denominated secular property, would include the family mansion; yet it might be as objectionable to the other members of a Hindoo family, that one of them having become a Christian, should retain his right to a share in the building, as that he should take a share of land devoted to the maintenance of religious ceremonies. I will suppose the case of four brothers, residing in the family mansion of their ancestors, and that one of them becomes a Christian. Previously they had all lived, as is the custom of the country, under the same roof, as a common property, and partook of their meals in common; but after the conversion of one of the brothers, it would be impossible that, for the three brothers who remained Hindoos to meet at meals, or allow of contact with, or in any measure associate with, the brother who had become a Christian, without being, according to Hindoo notions, so contaminated as to be liable to exclusion from all society of uncontaminated Hindoos throughout the country: either the Hindoos or the Christians must forfeit their right to reside in the house.

2261. Do not you think that that is a difficulty which ought to be left to the mutual adjustment of the members of the family; is not that a lesser evil than for the British Governmeut to allow the injustice of persons losing their secular property on account of a change of religious opinions?
I do not see what necessity there would have been, in legislating upon this subject, to have carried the legislation to such a length as to render it, for the sake of maintaining their rights as Hindoos to a few Christian converts, an engine of injustice to the great body of the people, such as that of which these memorialists complain.

2262. Does not the last objection which you have raised in reference to the possession of a house or other property in common, apply not to the ecclesiastical question, but to secular property, as distinguished from ecclesiactical?
Yes;

Yes; I mentioned that this is a description of property which, although not of an ecclesiastical nature, is still of that nature, that if one brother of a family being converted to Christianity, is allowed to retain his share in the house, the law becomes a source of gross injustice to the remaining unconverted portion of the family.

2263. It is secular property, which by reason of religious objections could not be enjoyed by the rest of the family?

Yes, the house would become polluted and desecrated, and if the law maintains the Christian brother in possession, the house is actually lost to the three Hindoo brothers; so that this Act has the effect, in endeavouring to do justice to one, of inflicting injustice upon the three.

2264. In order to illustrate the principle, you selected the case of a house where contamination takes place from intercourse; but are the Committee to understand that you object on principle to a law which entitles a Hindoo to retain his secular property (if such a division exists, or is possible to be drawn,) when he is converted to Christianity?

I can see no objection to a law which enables a Hindoo, when converted to Christianity, to possess all the property which he could possess, without committing injustice or outrage to the feelings of those Hindoos who are unconverted.

2265. Is it not the case that, in the present state of the Hindoo law, it is against the law that he should retain any portion of his property?

I doubt whether the Hindoo law would extend so far as that; it considers, I believe, the whole of the inherited ancestral property as forfeited by the man who ceases to be a Hindoo, but no other property. Besides the objections which may be made to the law itself, I would also draw attention to the manner in which this law has been passed, without sufficient inquiry as to what its effect may be. I would not give the Governor-general in Council unlimited power to pass a law so opposed to the feelings and wishes of the people, without providing a channel through which the opinion of the people should be known and published before the passing of the law. I do not mean to disparage the talent and discretion of the four gentlemen who composed the Legislative Council in Calcutta; but I say that no four gentlemen so circumstanced ought to be entrusted with the uncontrolled power of legislating, contrary to the declared wishes of the people, upon matters so intimately connected with the happiness and the contentment of the millions of subjects whom we possess in India.

2266. Have you ever considered whether it would be practicable in Calcutta, and at Bombay and Madras also, to constitute bodies of Mussulmans and Hindoos respectively, which bodies should be qualified for considering and for giving an opinion upon drafts of laws affecting respectively their laws and religion, previously to the passing of such laws?

These papers have led me to form a very decided opinion, that there ought to be some such body, either occasional committees, or a permanent standing committee, selected by the Governments of the Presidencies in India, consisting of the most respectable and best-informed of the Hindoos and Mussulmans, who should be consulted, and whose voice should have weight before the Legislature come to a decision upon the passing of any law affecting their rights, their interests, or their religion.

2267. Have you ever considered the question of the expediency of leaving to the Governor-general in Council, as the Council is now constituted, the whole of the executive power which they now possess, and constituting a body of which the Governor-general in Council should form a part, but to which should be added other persons of high standing in the civil department, to which body should be entrusted the legislative authority; so that there might be two bodies, namely, the Governor-general in Council solely for executive purposes, and the Governor-general in Council, with the addition of other members, for legislative purposes?

I conceive it would be desirable that there should be such a distinct legislative body, as is supposed in the question, distinct altogether from the Executive Council.

2268. In so obtaining the advice of the natives in relation to acts which would

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be passed legislatively, would you propose that the decision of the natives so consulted should be conclusive as to rejecting any law?

Certainly not.

2269. What functions would you give to this body; would it be merely to express an opinion upon any law which was proposed?

Simply that they should, as a body, put upon record their opinions upon any projected law, and that publicity should be given to their opinions.

2270. From your knowledge of the natives, do you think there would be any difficulty in obtaining persons of sufficient intelligence and knowledge to perform those functions?

I am certain that, as far as regards the community of Calcutta, there are numbers of exceedingly highly educated and well-informed persons of rank and influence who are admirably calculated to be selected to perform a duty of that kind.

2271. How would those proposed laws be laid before such Council; would they be laid before them in English or in an Oriental language?

In English, certainly. Under the present system the laws are all published originally in English, and are afterwards translated into the native languages; and I imagine that under any new system, such as is here contemplated, a similar course would be adopted. Also, there would be this advantage in such course, that in all probability the native members of such a commission would in many instances circulate for the opinion of their friends at distances from the Presidency, in their own vernacular language, copies of the drafts proposed, with their own sentiments upon the subject.

2272. When you were in office, you paid some attention to the state of the education which was going on?

Yes; I had occasion to preside at the annual meetings of the different establishments, and it is a subject in which I have always taken great interest.

2273. Without going into the general question of education, which is reserved to a subsequent period of this inquiry, will you have the goodness to state whether the progress which has been manifested, to your own knowledge, in this respect, has been such as to give you any assurance that the process you have described, namely, the translation of those documents, could effectively take place, with a view to their circulation for the information of the native people?

Certainly; those native gentlemen to whom I have alluded have not only of course a perfect knowledge of their native tongue, but can read and write, and understand English, as well almost as if they had been brought up in schools in England. I beg permission to adduce as proofs of this these scholarship examinations of the Government colleges and schools in Bengal for 1850–51, which give an idea of the style of education and the character of the performances of the young men. I will lay this before the Committee.

[*The same is delivered in.*]

2274. On this subject of translation, are you acquainted with Mr. Eliott, to whom was referred the question of the translation of the Code?

Perfectly well.

2275. You remember that the question of the translation of the Penal Code was referred to Mr. Eliott?

Yes, two chapters were referred to him for translation.

2276. Was he selected by the Government for that purpose?

He was.

2277. On account of his competency to give an opinion upon that subject?

Yes.

2278. Are you aware what opinion he gave?

I am aware that he expressed an opinion that he should be able to effect a translation.

2279. Are

2279. Are you aware of any contrary opinion that was given by any persons of equal or superior authority?

Contrary opinions were given by many persons, and since his translation was completed, I understand from gentleman who have returned from India since I did, that it is scarcely intelligible to the natives of India.

2280. Are those gentlemen in England?

I heard so from one gentleman, who is the author of a recent work on India.

2281. Is he an Oriental scholar?

I do not know that he is particularly accomplished as such.

2282. Are you aware of another translation made by Mr. Woodcock, of the whole of the Code?

I have heard of another translation; that is, since I came from India.

2283. Are you aware whether that translation was transmitted by his superior officer, Mr. Thomasson, to the Supreme Government?

I have heard of something of the kind; but it is since I was in India.

The Witness is directed to withdraw.

WILLIAM WILBERFORCE BIRD, Esquire, is called in, and further examined as follows:

2284. YOUR attention is requested to Question 1010, as printed in your former evidence, where this appears: "When Lord Ellenborough went up the country, was it not the fact that he took no secretary for any department except the Foreign Department and one member of the Military Board?" The answer is, "That is true; but any of the secretaries of the Governor-general can act in all departments." In point of fact, when Lord Ellenborough went up the country did he not take with him the secretary of the Foreign Department and the secretary of the Military Department, Mr. Mansell, who acted as secretary in the Financial and all other departments?

Yes, there is a mistake in the question, inasmuch as it was the Military secretary to Government, and not a member of the Military Board, who accompanied his Lordship, and I did not recollect that it was Mr. Mansell who acted as secretary in the other departments.

2285. You are aware that it is in the power of the Directors of the East India Company to recall the Governor-general of India without asking the permission of the Government; will you have the goodness to state whether you think that that power is consistent with the general relations between the Home Government and the Court of Directors and the Government of India; and also whether, in your opinion, it is a power which it is advantageons the Court of Directors should retain?

I think it is very undesirable that, on a question of so much delicacy and importance as that of the recall of the Governor-general of India, there should be any public disagreement between the Home authorities which may lead to set the one in open opposition to the other; such a collision of opinion would necessarily lead to one of a corresponding description throughout the community of India; and if it is supposed that the recall is likely to be followed by any sweeping change of policy on the part of the general Government, it might be attended with very serious consequences. I think, also, that it places the functionary on whom it devolves to take temporary charge of the office of Governor-general in a very painful and embarrassing situation, as, however anxious he may be to discharge his duty, it is next to impossible that he should be able to give entire satisfaction to both parties. I think, therefore, that to prevent such a collision, it will be very desirable that all discussions between the Court of Directors and the Board of Control on that subject should be conducted in secret, and the Court's decision be carried out if the law remains as at present, with the concurrence of both authorities, or else that the law should be altered; anything in the shape of a struggle between the authorities, whether at home or abroad, must, in such a country as India, be attended with serious inconvenience.

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2286. By weakening the Government?
Yes.

2287. You can hardly speak of "public disagreement," for nothing of the struggle is known till the event takes place?
It was very well known in India; I am speaking of what actually took place. I think that as everything else of importance, such as the determination of war and peace, &c. &c., is conducted in secret between the Board of Control and the Court of Directors, it would be desirable, as long as the law continues as it is, that the consultations should be held in the secret department, and the result appear with the concurrence of both authorities; and that the one should not openly act in opposition to the other.

2288. Is it your decided opinion that it would be better to withdraw from the Court of Directors the power of recalling the Governor-general?
I have not seen the discussion which led to that power being reserved. I have lately understood that there were discussions on the subject, and that it was seriously and deliberately determined upon at the period of the last charter. Not having seen those discussions, I cannot, without further consideration, give an opinion absolutely one way or the other; but I think the present state of things is injurious. It is desirable that whatever decision the Court may finally come to, it should not appear, as far as the public are concerned, that the Board of Control is opposed to it; and if that cannot be done, I should say that the law had better be altered.

2289. You speak of two authorities, but is it not the fact that there would only be one authority if that power were withdrawn from the Court of Directors?
If it were withdrawn, there would be only one. The Board of Control is paramount, I believe, on almost all other subjects. India is placed in trust on the part of Her Majesty to be governed by the Court of Directors, but in point of fact the whole of the Government is ruled and controlled by the Board of Control, with this solitary exception.

2290. Do you consider that the intention originally was to give concurrent authority to the Board of Control and to the Court of Directors, and that if you were to deprive the Court of Directors of the power of recall, it would be practically taking away that power out of their hands, and placing the undivided and sole Government of India in the hands of the Board of Control?
I have not seen the discussion which took place upon the subject, and I cannot tell what led the Government of the day to acquiesce in that provision. I should like to be allowed to see that discussion first. Without seeing it, I am not competent to give an opinion; but I do not think the question should remain as it is. I think the publicity which was given to the disagreement between the Board and the Court very injurious in India. India is not like England; it is very desirable it should appear that we are united among ourselves.

2291. Are you aware that resolutions of the Court of Directors are passed by a simple majority, and do not require unanimity?
Yes, I am.

2292. So that the Governor-general, or any other public Indian officer, might be recalled, merely by a simple majority of one in the Court of Directors, without the possibility of any interference from the Board of Control, or of any other power?
I should say that it ought to be altered if that is the case.

2293. Might not this simple majority exercise the power of controlling the Governor-general, without being acquainted with any one of the circumstances upon which his conduct had proceeded, all those circumstances being contained in the secret correspondence, to which they had no access?
I do not know, except in a general way, how the proceedings of the Court of Directors and the Board of Control are conducted, but it possibly may be so.

2294. You have stated that you think some alteration should be made; do you think it would be expedient to require at least three-fourths of the Court of Directors to enable them to insist upon the recall of the Governor-general in preference to a bare majority?

I should

I should say that if the law is allowed to remain as it is, there should be an almost unanimous decision. There should be no doubt whatever that it is the desire of the Court at large that he should be recalled.

2295. It is your opinion that if the power is retained, it should only be in cases in which there is an unanimous decision of the Court of Directors in favour of the recall?

I am hardly prepared to say an unanimous decision, but I think it should be virtually unanimous; that nothing less than a decided majority on the part of the Court of Directors, something very near unanimity, should enable them to act against the opinion and the wish of the Crown.

2296. If you required the consent of the whole Court, would not the simple power of one member of the Court to withhold his consent give to that one person entire and unqualified control over the opinion of all his colleagues?

What I meant to say was, that it should be a decided majority, not a bare majority merely; and that unless it was the clear opinion of the Court at large that the Governor-general ought to be recalled, I should say that it should not be allowed. But what I chiefly complain of is the publicity. Whatever may be the determination of the authorities at home, I do not think it should be allowed to appear in India that it is a divided determination. If that is not practicable, then I should say that the recall ought to have the concurrence of the Crown.

2297. Do you conceive that it would be at all practicable to vest the power of recall of the Governor-general in the joint authority of the Crown and of the Court of Directors by any mechanism similar to that by which the nomination of the Governor-general takes place?

I do not feel competent to answer that question. What I mean to say is, that any collision of authority between the two governing bodies at home has a very injurious effect in India.

2298. May not an expectation generally diffused through India, that a Governor-general will be recalled in consequence of the known hostility of the court to him and his measures, produce a much more injurious effect in weakening the Government, than the actual recall of the Governor-general when it takes place?

I am not able to answer that question, because I only know of one instance which was followed by a recall. What would have been the effect which is supposed in the question if the recall had not followed, I cannot say.

2299. Have you any recollection of a report received from Gwalior, of the intention of the Gwalior Government not to accede to the terms proposed by the Government of India, in consequence of an expectation from public rumour that the Governor-general would be recalled?

I have no recollection of hearing that report, but I do not think it at all unlikely that such was the case. It may have been prevalent at Gwalior, without having reached Calcutta.

2300. Have you any doubt that a Governor-general, weakened and discredited by the expectation of his recall on the part of the public, would be utterly insufficient to carry on the Goverment of India?

I am not prepared to say that he would be utterly insufficient to carry on the Government of India; but it would certainly be very embarrassing, and attended with great inconvenience.

2301. Might it not practically create very great embarrassment in the Council itself, if it were understood that the Court of Directors, having the power of recalling the Governor-general, were disposed to exercise that power; might it not lead to opposition to his measures in the council itself, and to very great difficulty in carrying on the Government?

No doubt it might, if it was supposed that the Governor-general was likely to be recalled; it might deprive him of support, and thereby weaken his authority.

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2302. What would be your opinion of the effect of a change in the law which should exclusively vest the power of recall of the Governor-general in the Board of Control and the Court of Directors acting jointly?

I am not prepared to answer that question.

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned till Monday next, One o'clock.

Die Lunæ, 14° *Junii* 1852.

THE LORD PRESIDENT in the Chair.

Evidence on the East India Company's Charter.

C. H. Cameron, Esq.

14th June 1852.

CHARLES HAY CAMERON, Esquire, is called in, and further examined as follows:

2303. HAVE you any suggestions to make with respect to any alterations in the late Charter Act?

Yes, I have two or three suggestions to make upon that subject; there was a case which I intended to mention, illustrating the duties of the fourth member of Council; and I should be glad to state that case now, as a preamble to my answer to your Lordship's question; it will illustrate the alteration which I should recommend. The case which I wished to mention, as showing the duties of the fourth member of Council in difficult questions which come before the Council, and the necessity of there being somebody conversant with the principles of jurisprudence, is the case of a Rajah who came down from some place in the north-west, and established himself out of the jurisdiction of the Supreme Court; but in the neighbourhood of Calcutta he kept up a degree of royal state, and gave out that he was a royal person. The Government had information that he was endeavouring to seduce the sepoys: he had some wild scheme of setting up an Indian Empire, and driving the English into the sea. The question then arose, how the man was to be dealt with; there was no difficulty in getting hold of him, but how was he to be punished afterwards? That I had to consider; the first difficulty which arose was this: there has always been considerable difficulty in relation to questions of treason; we asked the opinion of the judge, who, in the natural course of things, would have had to try him; that judge told the Government that the Company's officers could recognise nothing but the Mahomedan penal law, as modified by the regulations. The Mahomedan penal law lays down upon the subject of treason, that in the first place the Sovereign must be a Mahomedan, and that no allegiance is due to any but a Mahomedan Sovereign; consequently it was out of the question to apply that law to the case, I thought; and I still think that when any dominion of a foreign prince becomes the dominion of Her Majesty, although the law of the country generally remains unaltered, until competent legislative authority has altered it, yet with regard to that particular portion of the law which binds the subject by the tie of allegiance to the Sovereign, the English *jus coronæ* does become the law of that country. I remember the illustration which I then suggested was the case of the Mauritius. I apprehend when the Mauritius became part of the dominions of Her Majesty, independently of all Treaties and Acts of Parliament, the English *jus coronæ* became the law of the Mauritius instead of the French law, and accordingly the Mauritius descended *ipso jure* from William the Fourth to Her Majesty, and not to the King of Hanover, to whom it would have descended had the French *jus coronæ* continued to be part of the law of the Mauritius. So in like manner I ventured to tell my colleagues that the English law of treason was applicable to all cases of Her Majesty's subjects in India, whether native or European. However, the difficulty then was with respect to the judge, for though this might be the law, and I might be right in my constitutional doctrine, we could not of

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course tell the judge what he was to decide. Then arose another constitutional question: there is a law in India by which any such case as this may be transferred from one judge to another at the option of the Government, and I thought that if the Government knew that the judge who, in the ordinary course, would have to try the case, held what the Government considered not to be law, but that another judge held a doctrine which the Government considered to be sound law, there was nothing unconstitutional in transferring the trial from the former judge to the latter; for some reason or other that particular case never came on; then arose the legislative question what we should do to guard against such cases in future, and there we were stopped by the difficulty which arises out of the words of the Charter Act. The words of the Charter Act which are applicable to this question are, that "The Governor-general in Council shall not have the power of making any laws or regulations which shall in any way repeal, vary, suspend, or affect any part of the unwritten laws or constitution of the United Kingdom of Great Britain and Ireland, whereon may depend in any degree the allegiance of any person to the Crown of the United Kingdom, or the sovereignty or dominion of the said Crown over any part of the said territories." Now, I myself thought that that did not prevent our legislating for the purpose of giving effect to the unwritten laws, &c. There were, however, various opinions upon the subject, and there was an opinion expressed by my colleagues, who had prepared the penal code, which was to this effect; it is in the note to the chapter relating to offences against the State. My colleagues said in that note, "His Lordship in Council will perceive that in this chapter we have provided only for offences against the Government of India, and that we have made no mention of offences against the general Government of the British Empire; we have done so because it appears to us doubtful to what extent his Lordship in Council is competent to legislate respecting such offences. The Act of Parliament which defines the legislative power of the Council of India, especially prohibits that body from making any law 'which shall in any way affect any prerogative of the Crown, or the authority of Parliament, or any part of the unwritten laws or constitution of the United Kingdom of Great Britain and Ireland, whereon may depend in any degree the allegiance of any person to the Crown of the United Kingdom, or the sovereignty or dominion of the said Crown over any part of the said territories.' It might be argued that these words relate only to laws affecting the rights of the Crown and of Parliament, and not to laws affecting the penal sanction of those rights; and that, therefore, though the Governor-general in Council has no power to absolve the King's subjects from their allegiance, he has power to fix the punishment to which they shall be liable for violating their allegiance. It seems to us, however, that there is the closest connexion in this case between the right and the penal sanction; that a power to alter the sanction amounts to a power to abolish the right, and that Parliament, which withheld from the Indian Legislature one of those powers, cannot be supposed to have intended to grant the other." That is what my colleagues who prepared the penal code thought. It appears to me, with great deference to them, that upon two points they are in error. I think, in the first place, the words of the statute do clearly show that what is intended is the substantive law, which binds the subject to allegiance to the Crown, and not penal sanctions. Secondly, I think they are wrong in distinguishing for this purpose between the Government of India and the Crown. They did prepare a chapter in which there are the usual enactments against treason applied to the Government of India, such as levying war against the Government of India, &c. In my judgment, the levying of war against the Government of India is, in point of constitutional law, a levying of war against Her Majesty, and I do not think anybody can be competent to pass such laws, if they are not competent to pass laws relating to treason against Her Majesty. All this difficulty I should desire to have cleared up in the new Charter Act, either by having it distinctly expressed that the Government of India may legislate upon such a point, or by having it distinctly expressed that they may not.

2304. You have no Habeas Corpus Act in India, have you?
In the Supreme Courts, not out of them.

2305. If the Government had ordered the arrest of this man, what could have released him?
I do not know that anything could.

2306. There

2306. There are a number of persons in different parts of India who are under surveillance or in confinement, without any authority but the order of the Government, are there not?

Yes.

2307. Might not this man have been dealt with in the same way?

Very likely that was the way in which he was dealt with; but the question which I had to discuss was how he could be brought to trial.

2308. At the present moment, you think there is no means of punishing by law an act of treason?

There is no means of punishing treason, if it is not committed within the jurisdiction of the Supreme Court. My own opinion is, that such a case might be tried, but that is not the established doctrine. The established doctrine is, that the penal law is the Mahomedan law. I think the Company's Courts ought to administer so much of the English law as relates to the bond of allegiance binding the subjects of the Queen to Her Majesty. It is very doubtful how far the Legislature of India are competent to apply the remedy to such cases as I have mentioned.

2309. You said that the objection to the trial of this man was, that under the Mahomedan law, allegiance was not recognized to an infidel Sovereign. Your answer to that is, that though we may not change the law of allegiance under a new Charter Act, we may enact laws with reference to the punishment of such offences?

I think the Indian Legislature may enforce the duty of allegiance by ancillary enactments.

2310. The law required would be one not touching the punishment, but constituting the offence?

According to my own notion, the offence is constituted by so much of the common law of England as is saved from the interference of the Indian Legislature by the provisions of the Charter; I think when any country becomes part of the dominions of the Queen of England, all the common law of England relating to the bond of allegiance becomes *ipso jure* the law of that country; but I doubt whether it would be competent to the Indian Legislature to declare this constitutional motion.

2311. Do you include the law of treason by Act of Parliament?

That question would require a very detailed answer; I may say, I would include the statute of Edward the Third, so far as relates to the definition of treason. I recollect a case in Ceylon which is quite analogous; I was present at the trial of a Buddhist priest for high treason; he was tried upon an indictment framed with reference to the statute of Edward the Third; it would be a more difficult matter to say how much of the statute law applies; but I think the common law to the extent I have mentioned (and that is all which the Charter Act saves) becomes the law of any country coming into the Queen's possession.

2312. At the present moment, both the Imperial Parliament and the Governor-general in Council have the power of legislating for India, and the one authority, under certain limitations, may overrule the acts of the other?

Yes.

2313. Might any difficulties arise in the present state of the law from a collision between the two authorities?

Yes, I think there is danger of such difficulty arising. It is very often doubtful from the general words used in English Acts of Parliament, whether they do apply to India or not. If they do apply to India, all Acts passed since the Charter Act are preserved from interference on the part of the Legislature of India.

2314. They override the authority of the Legislature of India?

They do; the Legislature of India cannot repeal the provisions of such an Act. I cannot say precisely what Acts have been passed since, though that I have no doubt there are some; but there are at any rate several Acts concerning which it is very doubtful whether they apply to India or not. With respect to all those, the Government of India would (if they happened to have

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passed since) be in doubt whether it could pass a law varying the provisions of those statutes or not. Supposing it did pass a law, varying the provisions of those statutes; and supposing that law came under discussion in any Court in India, the Court would be bound to say (if it thought so), "This is a proceeding *ultra vires* of the Legislature of India; this which professes to be a law, is no law, and we cannot administer it." Every Court in the country would be entitled, and I think would be bound to say so, and there is no doubt the Supreme Court would do so.

2315. Viewing the possibility of a conflict between the Legislature of India and the Imperial Parliament with respect to Acts passed subsequently to the Charter, do you think there would be any convenience in establishing a permanent legislative rule, either that India should be bound by British Acts, unless expressly excluded, or else that India should only be bound by Acts in which she was expressly named?

I think it would be of the highest importance that there should be a special form of words always used by Parliament when it intended to include India.

2316. Is it not the practice of the Legislative Council to bring under the notice of the Governor-general in Council Acts which have been passed in England in which India is not specially mentioned, with the view of taking the opinion of the Council as to the expediency of making them applicable to India?

It is. It frequently happens that it is thought not to be desirable that the Act in question should apply to India.

2317. Then you take no step with respect to it?

No; but if the doubt arises which has been suggested as to whether the Act does apply to India or not, it is very desirable you should be able to take some step.

2318. Would not the step to be taken in that case be the step of requesting the Home Government to declare their opinion upon the subject, and take measures in the ensuing session to include or exclude India from the Act?

Yes; but it is very difficult to get an answer upon such a subject from the Home Government. That was the step we took in the case of treason, which I was citing; we appealed to the Home Government on the subject, but we got no answer so long as I was in India.

2319. In any new Charter Act which might be passed, what other alterations would you suggest?

There is a provision which was under discussion when I had last the honour of appearing before your Lordships respecting legislation for the subjects of Foreign States in India, which I think requires amendment. The provision in the Charter Act, as it now stands, is this, "The Governor-general shall have power to make laws and regulations for all persons, whether British or native, foreigners or others, and for all courts of justice, whether established by his Majesty's charter or otherwise, and the jurisdiction thereof, and for all places and things whatsoever, within and throughout the whole and every part of the said territories, and for all servants of the said Company within the dominions of Princes and States in alliance with the said Company." There the expression "all servants of the Company," according to the ordinary rule of construction, implies that you are not to make laws for anybody but servants of the Company in the dominions of Foreign States. It is often very convenient that you should make laws for all persons within the limits of the semi-dependent States of India, States nominally independent, but really dependent. Although you may have treaties with those powers, by which the native Prince gives you authority to legislate within his dominions, and consequently, if you do so, you do nothing of which he can complain, yet you exceed the power given you by the British Parliament, if you make laws for anybody but the Company's servants under this section; whether it was introduced unadvisedly or not I do not know, but I think it should be altered.

2320. Are the semi-dependent States regarded as Foreign States?

That is a question which it is impossible to answer; they are in some respects regarded as Foreign States; in other respects they are not.

2321. Might not the difficulty you have described cause serious obstacles in the administration of justice and the construction of the law, that being a matter of which the Courts would be bound to take judicial notice?

Undoubtedly it might; there might be very unpleasant conflicts between the judicial authority and the legislative authority, because, as I have said, the courts of justice are bound to notice the limits which Parliament has laid down for the legislative power of the Council of India; if any court of justice thinks that the Legislature has overstepped those limits, it is bound to say, "This is not a law, and we cannot administer it."

2322. Have any difficulties arisen within your knowledge with respect to the powers of the Crown in entering into treaties, and the construction which may be judicially given to those treaties as regards their operation in India, unless India be specifically named in them?

A case occurred of an Austrian vessel which came to the port of Bombay, and demanded to be admitted upon payment of single duties. I have no note of the case, but am speaking merely from memory. The ground of the demand was that the Crown had with Austria a treaty containing a most favoured nation clause. The Government of India had given to the Imaum of Muscat the right to come into the ports of the Company's territories, paying single duties, and consequently the Austrian Government says, "Here is a nation which is placed in a better position than we are; under the most favoured nation clause, we are entitled to stand in the same position as the Imaum of Muscat, he being an independent Sovereign." Your Lordships perceive, I think, that it is a very difficult question. We thought the Austrian claim was not maintainable. From very early times the Government of India has had the power (whether expressed or implied I am not sure, but I believe in the old Charter it is expressly given) to enter into alliances with the Sovereigns of Asia those Sovereigns which were not in amity with the Crown of England, and it has entered into a great many treaties, and this treaty with the Imaum of Muscat is one of that kind. There is therefore a whole series of treaties concluded by the Government of India. There are a great many princes who have no relations with the Crown of England, but have relations with the Government of India. Those two distinct systems must be, in the determination of such a question, kept separate. There certainly was no intention in giving that privilege to the Imaum of Muscat, or any other African or Asiatic prince, of authorizing a nation which had a most favoured nation clause, in a treaty between it and the Crown, to insist upon such a right, and so I advised my colleagues in the Government of India. What became of that case finally I do not know, but I believe the right was denied.

2323. Did not the Americans make a claim upon the same ground?

I do not remember it; it is very possible that they did; that is a matter which, I think, the new Act should provide for, and whatever other steps besides an Act of Parliament may be necessary should now be taken. Those treaties should be in some way saved from the ordinary operation of international law, and should not be considered as treaties of the Crown for the purpose in question.

2324. Are there any other changes which you are disposed to suggest in the renewed Charter Act, should such be passed?

I should be very glad if some definition could be introduced in regard to persons (if it is intended there should be any such) over whom the Legislature of India is to have power to legislate when they are no longer within its territorial limits. For example, it is very doubtful at this moment whether the Legislature of India can legislate for the punishment of any crime committed on the high seas, and cases have arisen which have brought that difficulty into practical operation. It was particularly a matter of doubt with regard to the naval articles of war; among the naval articles of war there is one which provides for the punishment of offences committed on shore, out of the Company's territories; in the Persian Gulph, for example, the Red Sea, and so on. The Bombay Advocate-general contended that we had overstepped our power in enacting that law. I thought we had not; I did not rely upon the general ground that we had power to legislate for offences committed out of our territorial limits, by persons navigating vessels belonging to ports within those limits, but upon the more special ground that, when a statute had given us power

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to enact any articles of war for a navy, it must have been intended by implication, that we should have power to legislate for that navy wherever it might happen to be serving; that doctrine, or something equivalent, has received the sanction of the home authorities, because the Act itself received the sanction of the home authorities; but it is a great difficulty; I am not stating it as a clear opinion of mine, but, on the contrary, as a great difficulty which, I think, requires to be obviated by the new Act. The question arose, I think, upon an indictment for murder at Bombay; there again I forget, having no copies of my minutes, what was the result, but I remember that was my opinion.

2325. Was not there an Act which was passed by the Council in an hour?

There was; I may mention that as another case illustrative of the difficulties the Council has to contend with in matters of jurisprudence, which renders it necessary, in my opinion, to have a member of Council who is conversant with the principles of jurisprudence. The question which gave rise to the Act to which I refer was the confirmation, by Sir Charles Napier, of a sentence upon a sepoy, which, as it was alleged, he ought to have confirmed upon the authority of a warrant of Sir Thomas M'Mahon, the Commander-in-Chief at Bombay, but he confirmed it independently of any such warrant. A habeas corpus was moved for and granted by the Supreme Court. It was not, however, in reference to that particular case that we passed the Act in question, but we were informed by the Bombay Government, that there were at this time, under sentence of a court-martial in Bombay, several sepoys of the Madras army, and it was thought that under the existing law, those sepoys had not been legally tried, because they had not been tried under a warrant from the Madras Commander-in-Chief, but under a warrant from the Bombay Commander-in-Chief. It was felt at once that it would be very inconvenient in every way, when there was mutiny existing in the army, if those sepoys were set free by a habeas corpus from the Supreme Court. We accordingly met, and having suspended the standing orders, passed a law, the real object of which was to get those sepoys out of the reach of the writ of the Supreme Court, which was a perfectly legitimate object as we all thought, and as I thought, and still think as a constitutional lawyer. The Act we passed was merely one which was copied from an English Statute, authorizing the removal of the sepoys from one gaol to another. Under this law they were removed from a gaol within the jurisdiction of the Supreme Court, to one which was without that jurisdiction. I mention that as an instance of the legal and constitutional difficulties which arise in the Government of India.

2326. Is there any other amendment of the Charter Act to which you wish to call the attention of the Committee?

The Supreme Court, when it was first instituted, considered itself as the Court of the Crown, bound to keep the Government of India within proper limits. They treated the Government of India as the mere Government of a corporation, and applied it to those maxims which English courts of law have applied to corporations in England. The judges of the Supreme Court now, whatever different opinions they may hold on that subject, are bound by the maxims so laid down by the original judges. I myself think the original judges were wrong. I think if such a man as Lord Mansfield had happened to be the first judge of the Supreme Court, he would have said, "Though this Government is in point of form a Government emanating from a corporation of merchants, it is in truth the Government of a great empire, and we must construe the laws applying to it, not as we would construe the laws applying to a corporation in England where there is a general Legislature, doing all which is necessary in the way of law-making, but we must construe them liberally and largely for the attainment of the great purposes of legislation and Government, and not as if this were a mercantile corporation which we should be bound to keep within the narrowest limits." I should therefore suggest, either that some clause should be introduced into the Charter Act directing the courts of law to construe the restrictions placed upon the powers of the Government of India in that liberal spirit, or I would suggest a still larger and more powerful remedy, but one which is not so much in accordance with ordinary constitutional principles, which is, that no Court in the country should have the power of saying that the Legislature of India had overstepped its legislative powers. I think it would be quite sufficient to keep the Legislature within its proper limits if that objection could only be taken

taken by the home authorities or by the Privy Council sitting as a Court of Justice, and that every Court in India should not be bound to say, when a law is produced before it purporting to be a law passed by the Government of India, but which such Court may think *ultra vires*, that the Legislature has overstepped its limits, and that the alleged law is really no law.

2327. Would not the evil be remedied if you suspended the operation of the law till the opinion of the Home Government could be obtained?

No; because even the opinion of the Home Government would not make it a law if it were not a law.

2328. Your suggestion of difficulty arises from the rigid construction which the courts of justice are bound to give to the statutes?

Yes, by precedent.

2329. No power could exist in a court of justice to suspend the operation of a law, or to delay their sentence, by reason of a doubt upon that subject?

Certainly not; any Moonsiff, if he thought fit to do so, would have a right to say, supposing the Legislature had exceeded its power, "This which professes to be a law is in truth no law."

2330. The consequence might be, that in adjoining districts the judges might take different views of the powers of the Legislature?

Yes. I should therefore say that it should not be competent to any Court in India to take that objection, but that it should be taken by the home authorities, or by the Privy Council upon appeal.

2331. That would deprive the inhabitants of India of a considerable protection which they now enjoy, would not it?

I do not think practically it would deprive them of any thing. The constitution of the Government of India is such, that I think it always has at heart the interest of the public.

2332. Those limitations with respect to the powers of the Governor-general of India are instituted for the sake of the connexion between this country and India, are they not, rather than for any other object?

Yes; those are the objects, and there is no conceivable reason why the Legislature of India should intentionally exceed its power, and I do not think they have any disposition to do so.

2333. You have just alluded to the decisions of the Privy Council on Indian appeals; have you any suggestion to make in relation to the renewal of the Charter, as bearing upon that branch of the subject?

I did make a suggestion when I was fourth member of Council in India, but it is a very high matter to meddle with. No notice was taken of the suggestion, and I felt too diffident to renew it, or say anything further about it. There is no doubt immense inconvenience results from that appeal, but it is considered as a great constitutional principle, and it really is so, that all the Queen's subjects should have access to her in her Privy Council. The suggestion I made for getting rid of the inconvenience, and preserving, as far as could be, consistent with that primary object, the jurisdiction of the Privy Council, was that there might be an Asiatic Judicial Committee of the Privy Council sitting at Calcutta, which should receive appeals from all the Courts in India; and I even went further, and recommended that it might receive them from all the British Courts in Asia. It might be selected from the Court of Appeal, which the Law Commissioners recommended, the College of Justice, as we called it, consisting of Judges of the Supreme Court and the Sudder. I thought if Her Majesty were pleased to confer the dignity of Privy Councillors upon any of those high functionaries, that select number might sit as an Asiatic Judicial Committee of the Privy Council, holding communication of course with the Judicial Committee in England. The Judicial Committee in England makes reports to the Privy Council, and the decision is in point of form the decision of the Council upon those reports. I thought, in the same way, this Asiatic Judicial Committee might send its reports by the overland mail, and they might be confirmed in the same way by the Privy Council, and so the difficulty and expense arising out of the appeals to the Privy Council, in their present form, might be got rid of.

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2334. Do not you think it would be an advantage if one or more persons acquainted with the judicial administration of India in the Mofussil were appointed members of Her Majesty's Privy Council, to assist the judicial committee when sitting upon Indian appeals?

I should think so, if the present system of appeal is continued.

2335. Under the present system, by which Indian judges are placed upon the Privy Council, is there not a defect of Indian legal practice and knowledge, which would be supplied by what is suggested in the last question?

I think that there must be a defect of knowledge of Mofussil law, or the law obtaining in the provinces of India beyond the jurisdiction of the Supreme Court, in the present constitution of the Privy Council, which would be well supplied by appointing one or more of the retired servants of the Company most distinguished for their knowledge of judicial matters.

2336. The experience and knowledge which they acquire from being judges of the Supreme Court do not, as you think, at all give them a knowledge of the practice in the Mofussil?

I would not say that they do not do so at all. Mofussil law does occasionally come before them, but, generally speaking, their acquaintance with Mofussil law is not sufficient to enable them to exercise appellate jurisdiction with effect.

2337. Are there many appeals of that character requiring a knowledge of Mofussil law?

I think there are. The whole number of appeals from India is not great; but those which require such knowledge I believe form a considerable portion of the whole number of appeals.

2338. Will you proceed to any other alterations which you can suggest in the new Charter Act to be passed?

There is a clause in a former Charter Act which enables the Government of India, when there is a deficiency of members of the Council, to make a quorum to supply the deficiency, by calling up civil servants. Several times we have been, by the absence of the Governor-general, and the sickness or accidental absence of another member, in a state of inaction in the Legislature, there not being a sufficient legislative quorum. When we were reduced to this state, we looked at the authority which I have been speaking of, and we thought we might under that call up a civil servant as a member of Council to make a legislative quorum. There were great doubts about it, however, from the way in which the provision is worded, and we took the opinion of the judges of the Supreme Court upon the subject. The judges of the Supreme Court are always extremely kind in giving us their legal opinion upon any point before us upon which we choose to ask for it. We took their opinion upon this subject, and they began, if I recollect rightly, by laying down one of those principles to which I alluded in answer to a former question, applying a maxim which English judges have applied to ordinary mercantile corporations in England, which was, that all words delegating legislative power were *strictissimi juris*, and must be construed in the most strict way possible against the body to whom the legislative power is delegated. They began their opinion with that statement, and then went on to deduce from the words of the provision, that the old power given by the former Charter Act of supplying a deficiency in the quorum of members of the Council, did not apply to this case of making a legislative quorum; and that a law passed by such a Council would be no law at all. Of course they would have been bound so to decide, had the case arisen before them in the administration of justice.

2339. Did you agree with them in that opinion?

I think if it is admitted that that maxim is one applicable to the Government of India, their opinion cannot be controverted; but I should never have applied any such maxim. I should have held that those provisions should have been construed most liberally for the attainment of the great objects of legislation and government. But they felt themselves bound by precedent to adopt that maxim from their predecessors, and they told us we could not in that way supply the defect. I think a provision to the effect that the Government of India may call up a councillor for the purpose of completing a legislative quorum ought to be introduced into the new Act.

2340. Supposing

2340. Supposing the Council were deficient in numbers for the purpose of passing a legislative Act, and it became necessary for the Governor-general to leave the Council with the power of the Governor-general in Council, that being only to be done by law, it would be impossible to pass such a law?

It would, and we were many months without the power of passing a law from the absence of any legislative quorum.

2341. What is the legislative quorum now?

The words are, "Provided also, and be it enacted, that all laws and regulations shall be made at a meeting of the Council at which the said Governor-general and at least three of the ordinary members shall be assembled."

2342. You can pass Acts in case of the absence of the Governor-general at a distance?

There is a special provision applicable to such a case.

2343. Do you think that the present quorum ought to be altered?

I do not know that the quorum requires alteration, but the power of calling up persons to be members of Council, for the purpose of making a quorum, I think should exist in the Government of India.

2344. Would the person so called up continue to be a legislative member of the Council when the Council itself was full?

No, he would only be called up *ad hoc* to supply the place of an absent member.

2345. Were not you made provisionally a legislative member of the Council?

Yes, I was twice made a provisional member; I was once made a provisional member between Mr. Macaulay's departure and Mr. Amos' arrival; and afterwards, before I was confirmed from home, I was provisional member on Mr. Amos' departure. That was not the calling up of a stranger to act as member of Council when there is no vacancy, but only a deficiency from absence, &c. There is a power in the legislative Council to supply vacancies.

2346. Have you any further alteration to suggest?

No, I have no further alteration to suggest.

2347. Do you think it would be desirable that, upon the appointment of a member of the Council, the assent of the Board of Control should be rendered necessary?

I would rather not give an opinion to your Lordships upon that question; I have not reflected upon it; *primâ facie* it appears to me to be right that it should be so.

2348. Should you think it desirable to have the assistance of members of the Council from Madras and Bombay?

Yes, I think there should always be a member from Bombay, and a member from Madras in the Council.

2349. Can an officer on duty in India be prosecuted by any private individual for an excess of power without permission from the higher authorities?

Yes, he must be prosecuted in the Supreme Court. There is one case which I have put down as an illustration of the difficult questions which arise, in which a threat of that kind was made to a magistrate of the Mofussil by an attorney in Calcutta.

2350. Have you any suggestions to make in respect to the renewal of the Charter as connected with the present provisions for the appointment of the fourth member of the Council?

I think the provision in the original Bill as it came up to the House of Lords, which was, that the fourth member of the Council should sit and vote at all the meetings of the Council, is much more desirable than the provision of the Act as it passed, in which the fourth member of the Council is confined to sitting and voting upon merely legislative questions; in the first place I should say, the more any legislator knows of the whole government of a country, the better he is likely to be able to perform his legislative functions; but secondly, it constantly happens that the questions which require legislation arise out of matters which have previously been considered in the Executive Council, and it would be very convenient, and in all respects very desirable, that the fourth member

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should have acquired the same practical knowledge of those questions by discussion in the Executive Council as all the rest of the members may have acquired.

2351. There would be no difficulty in placing all the papers before the Legislative Council, would there?

No, that is what is done; but it is much more difficult to collect any matter from a large mass of papers, when one has not assisted in discussing it as it arose for discussion in the Council.

2352. Should he have the same rights of voting as the other members of the Council?

That would not be absolutely necessary; but I think it would be desirable; I do not see any reason why he should not do so.

2353. The Commander-in-Chief now being generally absent from the Presidency, there would be a practical convenience, would not there, in having some gentleman in the Council besides the Governor-general, who is not altogether imbued with Indian notions upon the subjects which come before the Legislature?

I think there would.

2354. Can you suggest any alterations in the furlough regulations as laid down in the Charter Act?

That is a question to which I have not given sufficient consideration; I may have an opinion upon it, but not such an opinion as I should wish to lay before your Lordships.

2355. Is there any other suggestion which you wish to make?

There was a case of a European, who was accused of murder in the Mofussil. The magistrate who committed him, and the judge who was to try him, were both very doubtful upon one point, and they wrote to the Sudder, and finally the opinion of the Government was requested upon it. The point which created a doubt in their minds was this: the person in question was undoubtedly of European descent, and it was believed by the magistrate who committed him, and the judge who was to try him, that he was strictly a British subject; that is to say, a man born in Great Britain. Then arose the question whether such a man could be indicted, tried, and punished by the Mofussil Court if he did not plead his privilege of being tried by the Supreme Court, there being at present no criminal jurisdiction in the Mofussil Court over Europeans: we had to look into what had been done in former cases of the same kind, and we found conflicting opinions of two Advocates-general. The opinion of one Advocate-general, which seems to be the established opinion now, was, that the only Courts in the country which can be looked on as Courts of general jurisdiction are the Supreme Courts, and that all the other Courts of the country, being merely Courts set up by a corporation, must be considered as Courts of exceptional jurisdiction, and that therefore they are bound to take notice of the exemption of any man, who is a British subject, for example, from their jurisdiction; that they are not to wait for him to take the exception; but are bound themselves to take the exception, and if they did not take it, they would be exceeding their authority, and be guilty of murder if they hanged him.

2356. How can it be known what the man's origin is unless he pleads it?

In this case the man had a European name, and his language was English. The magistrate being alarmed at the great responsibility he was undertaking inquired about his parentage, and was satisfied that he was a man born in Great Britain, and therefore liable to the jurisdiction of the Supreme Court; but the man himself did not take the objection. It ended by his dying in prison before trial. This doctrine could have no application if the Law Commission's plan were adopted; but if that is not done, the doctrine should be negatived.

2357. In your former examination you will recollect you were examined in relation to the *lex loci*, as originally proposed, and to the subsequent enactment of three clauses which had been inserted in the *lex loci* at the suggestion of Lord Auckland. The Committee wish to know what remonstrance you alluded to as having been addressed to the Government of India on the part of the natives against the passing of that Act?

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The remonstrance I alluded to is printed in the special Reports of the Indian Law Commissioners in 1846, at page 640; it is from the Hindoo inhabitants of Madras to the Right Honourable Sir Henry Hardinge. It was to that remonstrance we put forward our answer, from which I read some extracts at my last examination.

2358. You only read extracts from that despatch; will you have the goodness to put it in in evidence?

I shall be exceedingly glad to put it in. It contains a manifesto of the principles of the Government of India with respect to the limits which it should observe in dealing with the laws of the Hindoos and Mahomedans, which the Law Commissioners should observe, and which the Supreme Council should observe.

The same is put in, and is as follows:

FROM G. A. BUSHBY, Esq., Secretary to the Government of India, to LUCMEE NARASA CHETTY, Chairman of a Meeting of Hindoo Inhabitants of FORT ST. GEORGE, dated 24th May 1845.

Sir,

I AM directed to acknowledge the receipt of a Memorial from a meeting of Hindoo inhabitants of the Presidency of Fort St. George, held at the Hindoo Literary Society's Rooms, on the 2d of April last, of which meeting you were the chairman.

2. The memorialists pray that Clauses XI., XII. and XIII. may be expunged from the draft Act for establishing a *lex loci* in British India, which was published on the 15th January 1845. As they appear to labour under considerable misapprehension as to the principles which guide this Government in legislating for the native inhabitants of India, I am directed to communicate to you the following observations, for their information.

3. The enactment to which the memorialists principally object is, "that so much of the Hindoo and Mahomedan law as inflicts forfeiture of rights or property upon any party renouncing, or who has been excluded from the communion of either of those religions, shall cease to be enforced as law in the courts of the East India Company."

4. The memorialists declare that "such a spoliation would be a virtual breach of faith on the part of the Indo-British Government, and incompatible with the engagements of former Governments."

5. The principle which guides the Government of India is, that all the religions professed by any of its subjects shall be equally tolerated and protected.

6. The Government acts upon this principle, not on account of any engagement it has come under (for no such engagement exists), but because it is just and right so to act.

7. If the Government were to deviate ever so widely from this principle, it could not justly be reproached with breach of faith, though it might justly be reproached with partiality and intolerance.

8. It is just and right to tolerate a Hindoo in the exercise of his religion, and to protect him from any loss of property on account of the profession and exercise of his religion.

9. But the Hindoo religion is not the only religion which the Government is bound to consider; the Christian religion, the Mahomedan religion, and all others which exist in the country, have claims (quite independent of the fact that one of them is the religion of the Government itself) to the same impartial protection; and if a Hindoo becomes a Christian or Mahomedan, it is just and right that he, too, should be protected against any loss of property on account of the profession or exercise of the religion he has adopted.

10. If the Government refused to protect such a person against the loss of any property to which, but for his change of religion, he would be entitled, the Christian and Mahomedan communities would have just cause of complaint, and the Government, consistently with its own principles, could give no answer to their complaint.

11. In such a case, too, if the notion entertained by the memorialists that the Government entered into an engagement on the subject were correct, the Mahomedan community might justly allege that the engagement had been disregarded, and the faith of the Government broken.

12. For in every one of the legislative measures adduced by the memorialists, and relied upon by them as engagements entered into by the Government, the Mahomedan religion is put, as it certainly ought to be, upon a footing of equality with the Hindoo religion.

13. If the Government were really pledged to enforce every provision of Hindoo law, it would be equally pledge to enforce every provision of Mahomedan law.

14. The memorialists cannot be ignorant that the Mahomedan law does not permit a Mahomedan, who has been converted from the Hindoo religion, to be deprived of any property, or subjected to any disadvantage, in consequence of his conversion.

15. In the case, then, of a Hindoo who has become a Mahomedan, if it were really true that the Government is pledged to enforce the whole of the Mahomedan law, the community who follow that law would justly complain if the Government were to deny to such a Mahomedan any part of the rights which his own law promises to him. But the Govern-

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ment being in truth not bound by any engagement, is happily free to make such provisions for the conjuncture as shall be equitable, not to one class only, but to all classes of its subjects.

16. But putting aside the incorrect notion of an engagement on the part of Government to abstain from any alteration of the existing statutes and regulations, the Mahomedans have an unquestionable right to insist upon all the advantages which the law, as it now stands, confers upon them. The statute to which the memorialists appeal, the 2 Geo. 3, c. 70, s. 17, provides "that their inheritance and succession to lands, rents and goods, and all matters of contract and dealing between party and party, shall be determined, in the case of Mahomedans, by the laws and usages of Mahomedans, and in the case of Gentoos, by the laws and usages of Gentoos; and when only one of the parties shall be a Mahomedan or Gentoo, by the laws and usages of the defendant;" so that, according to the statute, which the memorialists (however erroneously) consider, and rejoice in considering, to be an irrevocable law, a convert from the Hindoo to the Mahomedan religion, who has got possession of his Hindoo ancestor's property, is entitled to retain it against the Hindoo claimants.

17. If the memorialists were to act consistently upon their own doctrine, that the unjust portion of the Hindoo law of inheritance can in no case, without a breach of faith, cease to be administered by the courts of British India, they ought to ask the Government immediately to alter this law, instead of asserting that it is an irrevocable engagement. They ought to ask that so much of it as enables a convert to the Mahomedan faith to defeat the unjust provision of the Hindoo law of inheritance, should be immediately repealed. They are quite right not to ask this, because they must know that an impartial Government would never accede to such a request; but they are as inconsistent in applauding the statute as they are wrong in supposing that it is a law which can neither be repealed nor altered.

18. Upon an occasion of this sort, it is proper to advert to the history of this country.

19. When the Hindoos became by conquest the subjects of a Mussulman Prince, they were deprived of their own law of inheritance if they entered the courts of justice, and compelled to submit to the Mahomedan law.

20. From this injustice the Hindoos have been delivered by the British Government, and they are now protected in the enjoyment of their own laws of inheritance. The Government will continue that protection to them; but it will not suffer them to force their law upon persons who have chosen to quit the Hindoo community. Those persons are entitled to the same toleration and protection as the Hindoos, and they will receive the same.

21. How completely the Hindoo law of inheritance was set aside under the Mahomedan dominion, may be seen from the remonstrance made in the year 1772 by the Naib Dewan, of Murshedabad, against a declaration of the British Government of Bengal, that "matters respecting the inheritance and the particular laws and usages of the castes of the Gentoos, should be decided by the established magistrates, assisted by the proper persons of the respective religions, according to the laws and usages of each."

22. The substance of this remonstrance is quoted by the Law Commissioners in their Report upon which the *Lex Loci* Act is founded, from the sixth Report of the Committee of Secresy appointed to inquire into the state of the East India Company, as follows:

"The Council of Revenue, in a letter to the President and Council, May 1772, enclosed a remonstrance of the Naib Dewan, respecting that part of the instructions in the last letter of the President and Council, which directed that in cases of the inheritance of the Gentoos the magistrates should be assisted by the Brahmins of the caste to which the parties belong. In that memorial the Naib Dewan strongly remonstrates against allowing a Brahmin to be called in to the decision of any matter of inheritance, or other dispute of Gentoos; that since the establishment of the Mahomedan dominion in Hindostan, the Brahmins had never been admitted to any such jurisdiction; that to order a magistrate of the faith to decide in conjunction with a Brahmin, would be repugnant to the rules of the faith, and an innovation peculiarly improper in a country under the dominion of a Mussulman emperor; that where the matter in dispute can be decided by a reference to Brahmins, no interruption had ever been given to that mode of decision; but that where they think fit to resort to the established judicatures of the country, they must submit to a decision according to the rules and principles of that law, by which alone these courts are authorized to judge.

"That there would be the greatest absurdity in such an association of judicature, because the Brahmin would determine according to the precepts and usages of his caste, and the magistrates must decide according to those of the Mahomedan law.

"That in many instances the rules of the Gentoo and Mahomedan law, even with respect to inheritance and succession, differ materially from each other."

23. The British Government delivered the Hindoos from this oppression, and gave them the free enjoyment of their own law of inheritance. In the same spirit of justice and impartiality the Government of Bengal enacted the 9th section of the Regulation 7 of 1832 to prevent that law of inheritance, which the Government had restored to the Hindoos, from being converted into an instrument of oppression against those who have ceased to be Hindoos. This law has been the law in Bengal since 1832, and has never been complained of as being oppressive, or as a breach of any engagement entered into between the Government and the Hindoos; and now in the same spirit the Governor-general of India in Council is about to extend that principle to the whole of the British Indian Empire.

24. The Charter Act, 3 & 4 Will. 4, c. 85, to which the memorialists justly refer, as strengthening their feeling of confidence in the British Government, contains the last of those

those provisions which the memorialists consider as pledges that the whole Hindoo law shall be for ever enforced.

25. The supposed pledge is contained in the 53d section of the Charter Act. The memorialists have quoted a portion only of that section; it is proper to quote the whole:

"And whereas it is expedient that, subject to such special arrangements as local circumstances may require, a general system of judicial establishments and police, to which all persons whatsoever, as well Europeans as natives, may be subject, should be established in the said territories at an early period, and that such laws as may be applicable in common to all classes of the inhabitants of the said territories, due regard being had to the rights, feelings, and peculiar usages of the people, should be enacted, and that all laws and customs having the force of law within the same territories should be ascertained and consolidated, and, as occasion may require, amended; be it therefore enacted, that the said Governor-general of India in Council shall, as soon as conveniently may be after the passing of this Act, issue a commission, and from time to time commissions, to such persons as the said Court of Directors, with the approbation of the said Board of Commissioners, shall recommend for that purpose, and to such other persons, if necessary, as the said Governor-general in Council shall think fit, all such persons, not exceeding in the whole at any one time five in number, and to be styled 'The Indian Law Commissioners,' with all such powers as shall be necessary for the purposes hereinafter mentioned; and the said Commissioners shall fully inquire into the jurisdiction, powers and rules of the existing courts of justice and police establishments in the said territories, and all existing forms of judicial procedure, and into the nature and operation of all laws, whether civil or criminal, written or customary, prevailing and in force in any part of the said territories, and whereto any inhabitants of the said territories, whether European or others, are now subject; and the said Commissioners shall from time to time make reports, in which they shall fully set forth the result of their said inquiries, and shall from time to time suggest such alterations as may in their opinion be beneficially made in the said courts of justice and police establishments, forms of judicial procedure and laws, due regard being had to the distinction of castes, difference of religion, and the manners and opinions prevailing among different races, and in different parts of the said territories."

26. The memorialists consider the sections of the *Lex Loci* Act, against which they remonstrate, so completely at variance with this section of the Charter Act, that they think the Law Commission are not competent to propose such a law, and are prohibited from doing so by the Charter, from which its own existence and legislative powers are derived.

27. So far is this section from being a pledge that the laws existing in the country shall not be altered, that it is, on the contrary, an announcement that the Legislature contemplated the alteration and amendment of them. It lays down, indeed, the principles which are to control and limit any proposed alterations; and the real question, therefore, is, whether the enactments in question infringe those principles.

28. It is expedient, says the Charter Act, that "such laws as may be applicable in common to all classes of the inhabitants of the said territories, due regard being had to the rights, feelings, and peculiar usages of the people, should be enacted." And again, "The Law Commissioners shall from time to time suggest such alterations as may, in their opinion, be beneficially made in the said courts of justice and police establishments, forms of judicial procedure and laws, due regard being had to the distinction of castes, difference of religion, and the manners and opinions prevailing among different races and in different parts of the said territories."

29. A law which provides that, in a country where several different religions prevail, no man, to whichever of those religions he may belong, shall suffer loss of rights or property, because his conscience impels him to adopt another, is "a law applicable in common to all classes of the inhabitants of the said territories;" and the Law Commissioners, in suggesting such a law, have shown "due regard to the difference of religion, and the manners and opinions prevailing among different races, and in different parts of the said territories."

30. The memorialists say that the 12th clause will, if actually passed, annul the Hindoo law of inheritance. If this were true, it would follow that the whole Hindoo law of inheritance consists of provisions for punishing freedom of conscience, and the Government might feel bound to annul it. But the Hindoo law of inheritance is far from being the unjust and barbarous thing here implied, and the Government can conscientiously continue to enforce the far greater part of its rules.

31. The memorialists speak also of the proposed law as one which would "compel the relations of the convert to reward his apostacy." If this were a correct description, the law would be justly open to objection. The law should provide neither reward nor punishment for a change of religious opinion. It should leave every man to the dictates of his understanding and his conscience, unbiassed by any motive of interest; and that is what the proposed law does.

32. The memorialists say, in para. 10, "that the Law Commission, in thus summarily attempting an innovation, intended to deprive the Hindoo community of a national and legal right derived from their ancestors, and hitherto respected by their European rulers, affords strong cause of suspicion that such an innovation is only the prelude to others; that the security in person, property and religion, hitherto insured to native subjects, is in danger of being taken from them, and that the protection thus undermined in one instance may eventually be denied them altogether. The power which deprives them

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of this privilege can do so by another; and the spoliation of one is an intimation that all are liable to be similarly swept away."

33. The principles of legislation, which have been stated in the course of this letter, ought to satisfy the memorialists that the apprehensions thus expressed are groundless; and although their law is not protected by a pledge that its provisions shall be enforced throughout all futurity, it is protected by the determination of the Government to preserve to the two great classes of its native subjects the rules under which they have lived, and to which they are attached, when these rules are not injurious to other classes.

34. With regard to the objections made by the memorialists to the wording of the sections in question, they will be taken into consideration, together with objections of the same kind made from other quarters, before the law is passed. The Government is always glad to receive and to attend to suggestions intended to assist it in the endeavour to express its laws with all possible clearness and precision.

35. It is the intention of Government, for the more convenient arrangement of the new law, to remove the three sections from the *Lex Loci* Act, and to place them in a separate Act.

36. It may now be reasonably presumed that no other persons intend to offer objections against this draft than those who have already availed themselves of the opportunity afforded by the period of four months which has elapsed since the Act was read a first time, being one month beyond the time notified in the Gazette for its re-consideration. The Government, therefore, in framing this answer to the memorialists, has under its consideration, not only their Memorial, but the representations of all those who appear to take any active interest in the question to which it relates; and the confidence of the Government in the principles stated in this letter has not been at all shaken by any of those representations.

37. In conclusion, I am directed to state, that, although the Government is always desirous that the classes to be affected by its legislative measures should freely express their opinions upon the draft Acts which it publishes, yet it is a source of deep regret to the Governor-general in Council that, at a period when public opinion among a great part of the Hindoos has become in a high degree tolerant and enlightened, a Memorial founded upon doctrines of so opposite a character should have been presented by a respectable portion of that community.

I have, &c.

Fort William, 24 May 1845. (signed) G. A. Bushby,
Secretary to the Government of India.

2359. Was there any reply received from the petitioners after that document had been communicated to them?

There was no reply received; there was another remonstrance of the same kind from some Hindoos at Calcutta, in reply to which we enclosed the answer that we had previously sent to the Madras Hindoos, stating that that contained our principles on the subject.

2360. Will you have the goodness to inform the Committee whether that Act was, in fact, carrying into effect what had been the previous practice, as well as the law, in the province of Bengal?

Yes; that Act was extending what had previously been the law in the province of Bengal, out of the jurisdiction of the Supreme Court.

2361. For what period had that been in force?

It was in 1832 that Lord William Bentinck's Government passed the Regulation.

2362. Had that led, in the interval between its enforcement in 1832, and the remonstrance from Madras, to any inconvenient consequences in the province of Bengal?

I never heard of any.

2363. After the passing of the *lex loci* had been suspended, in the manner which you have described on a former occasion, at what period was the subsequent law of the three articles introduced, proposing to re-enact those provisions with respect to the property of Christian converts?

Legislative Consultations of the 2d of August 1845, I find to be the marginal note on the draft made by me.

2364. Are you aware of any remonstrance analogous to that from Madras, which had been previously addressed to the Government, having been repeated when those clauses were proposed as a separate measure?

I have no recollection of any such remonstrance; I never heard of any after the two I have mentioned.

2365. Are

2365. Are you acquainted with the document now produced, purporting to be a memorial of certain Hindoo inhabitants of Bengal and its dependencies, to the Court of Directors of the East India Company, to repeal the Act 21 of 1850, intitled, "An Act to extend the Principles of Section 19 of the Bengal Code"?

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I never saw nor heard of such a document.

2366. Your evidence as to the appeal against the clauses applied to what occurred during your own stay in India?

To what occurred during my own stay in India; there were two remonstrances, one from Madras; the one to which we gave the answer I have put in, and another from the Dhurmah Shubha at Calcutta, which is an assembly of orthodox Hindoos, whose principal object is the conservation of Hindoo orthodoxy. We answered that by enclosing the answer we had previously sent to Madras, and stated, "The misconception of the memorialists concerning the existence of any stipulation on the part of the British Government of India with its native subjects, which would be infringed by the enactment of the sections above mentioned, has been fully discussed in the reply of the Governor-general in Council to the meeting at Madras: in the same letter the principles on which the Government acts in regard to religious toleration, and in regard to the administration by its courts of the Hindoo and Mahomedan law, are stated, and I am directed to transmit, for the information of the members of the Dhurmah Shubha, a copy of that reply." Those are the only two remonstrances which I ever heard of, and those were the two answers which were given.

2367. To neither of those answers was any reply made?

No reply was made to either of those answers.

2368. And no further consequences have arisen?

No further consequences; there was a great deal of discussion in the newspapers, but nothing further thanthat.

2369. Supposing a just cause of exception to arise with respect to property, so preserved to a Christian convert, by reason of its having any connexion with Hindoo religious feeling, would there be any difficulty in providing for that by a separate enactment, so as to allow civil property to remain, while ecclesiastical property passed away?

We did provide for it in our draft; we had an exception intended to cover such a case in the draft itself. What may have been in the Act as it passed, I cannot tell, because I never saw it; but the draft which I prepared before I left India, contained an exception intended to meet such a case as your Lordship suggests.

2370. Can you inform the Committee what are the provisions of the existing law in that respect?

I cannot.

2371. Will you upon paper give the Committee a sketch of the system of judicature which would now exist if the plans of the Law Commissioners had been carried out?

I have been drawing up such a sketch, and should be very glad to lay it before your Lordships.

The Witness is directed to withdraw.

THOMAS CAMPBELL ROBERTSON, Esquire, is called in, and examined as follows:

T. C. Robertson, Esq.

2372. WHEN did you first go to India?

I arrived in India in December 1806.

2373. When did you leave India?

I left it finally in March 1843.

2374. Will you state to the Committee generally the situations which you filled?

For the first eight years I was in subordinate judicial situations in Bengal. In the year 1816 I was acting judge and magistrate of the city of Patna; from the year 1817 to 1823, which was a period of seven years, I was judge and magistrate of Cawnpore, in Upper India; from 1824 to 1826 I was with the armies

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in Arracan and Ava as political and civil commissioner; after that, I came home for four years, and returned again to India in 1830; then I held the Revenue and Police Commissionership of the district of Barelei, in Upper India, and after that I was Governor-general's agent in the North-Eastern frontier of Bengal, in Assam, and the other provinces on the North-Eastern frontier; then, for four years, I was in the Sudder Court of Calcutta, after which, I became a member of the Council, and remained in it from September 1838 to January 1840, when, at Lord Auckland's request, I left the Council, and went up to Agra as Lieutenant-governor, and there I remained till March 1843.

2375. The appointment of Lieutenant-governor of Agra is vested entirely in the hands of the Governor-general, is not it?
Entirely.

2376. What are his particular duties?
The general civil government of the country, with the entire patronage of every kind, except the Sudder Courts and Revenue Board, which require the confirmation of the Supreme Government.

2377. Was any objection ever taken to the recommendations which you made for appointments to the Sudder Court?
Never, that I remember.

2378. The Lieutenant-governor of Agra administers the province without any Council, does not he?
He has no Council.

2379. Is there any difference between the mode of administering the Upper Provinces and the Province of Bengal?
No material difference; the same laws prevail throughout. There may be a difference sometimes in the mode of administration, from cases arising in the different provinces which are not under exactly the same regulations, such as the Province of Bundelcund and others.

2380. Is the settlement of the revenue managed in the same way in the two provinces?
No; there is a considerable difference.

2381. Will you point out what the difference is?
The revenue system of the Lower Provinces proceeds upon the assumption of the permanent settlement, in Lord Cornwallis's time, being fixed and irreversible. The assessment of the Upper Provinces was quite open to revision, and was in process of revision while I was there. It has been continued since I came away for 30 years; the revenue is settled for 30 years.

2382. Is it a fixed payment upon the land?
A fixed payment.

2383. Can you suggest any alteration in the present relations between the Government of Agra and Bengal?
None; it seems to me that their relative position is very well fixed. I do not see that the Governor of Agra requires any further power than he has.

2384. You were for two years a member of the Council, were not you?
I was.

2385. Does it appear to you that there would be any advantage in placing the Government of Bengal upon the same footing as the Government of Agra?
I think there would be this great advantage, that the Council might then move to other parts of the country, and not always be fixed in Calcutta, which I think often is objectionable. I think the Lieutenant-governor remaining constantly there, and having but one thing in view, and not being liable to change, would be also a great advantage.

2386. It would enable him to visit parts of the Province of Bengal?
He would acquire an interest in it, and a minute and detailed knowledge, which would be highly advantageous to the country.

2387. Which are quite beyond the power of the Governor-general?

The

The Governor-general has not power to attend to every thing that he professes to attend to; he must leave many local matters to be attended to by others.

2388. Supposing such a change to take place, would it occur to you to leave the appointment of the Lieutenant-governor in the hands of the Governor-general?

Yes.

2389. Would you put the patronage upon the same footing?

I would put it upon the same footing as that of Agra. I think the Supreme Government ought to have a veto upon the appointments to the Sudder Courts and Board of Revenue.

2390. Practically, the Committee understand you to say you did not find any inconvenience arise from the sort of understanding which now exists?

Not the slightest.

2391. Did you ever feel the want of a Council when you were Lieutenant-governor?

No; I cannot say in my own experience I ever felt the inconvenience.

2392. Is the authority distributed in the same way among the various officers in the Judicial and Revenue Departments in the Upper Provinces and in the Lower?

Exactly; there are the same grades throughout.

2393. Have you Commissioners of Revenue and Circuit in the Lower as well as in the Upper Provinces?

The Commissioners were not Commissioners of Circuit in my time, that is, if the term Circuit is meant to apply to criminal trials; the criminal trials were all held by the judge of a district. The Commissioners were Commissioners of Revenue and Police; there may have been an alteration within the last ten years.

2394. Had you any native judges presiding in the Courts of First Instance?

Many, and admirable judges they were.

2395. How did they administer their functions?

I think very well indeed, if properly looked after. It must be understood, in every case in India, that if the head of a district is remiss, things will go wrong; but the native judges, well looked after, that is, the appeals from them being taken up with reasonable rapidity, are very good judges indeed.

2396. Is that shown by a confidence in their decisions, or are appeals from them very numerous, and reversals frequent?

There is a disposition among the people to appeal at all times from every decision; but I think some of the native judges are very highly respected.

2397. Is any difficulty felt in conveying to them, in their administration of the law, a knowledge of any new Acts which may be passed regulating their proceedings?

They very quickly understand any new Act which is passed; they are quick of comprehension generally.

2398. In the Province with which you were connected were any steps taken to diffuse among the natives a knowledge of the laws which were passed by which their interests were affected?

The only steps were, that copies in the native languages of those laws, which particularly related to the administration of justice, were sent to the different subordinate judges.

2399. Did you find any difficulty in producing intelligible translations of those laws which were available among the judicial authorities?

No, not the ordinary laws; I have heard it said that some laws were drafted, which could hardly have been translated into the vernacular. For instance, I have heard it said of the projected criminal code of the Indian Law Commission, that it would have proved very difficult to render into the common native languages. It was never brought into operation at all, and, therefore, the fact of whether it were really capable of translation easily, was not ascertained.

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2400. Was Mr. Thomason in your district?
He was my secretary.

2401. Is he not a man of peculiar eminence, from his literary knowledge, as well as powers of administration?
He is a man of great power of mind altogether, and of great knowledge of the country.

2402. You have been asked as to the means of communicating information to the natives; what was within your district the state of the native press?
It was perfectly free; free to an extreme; so free, indeed, that I may say that while in the Council in Calcutta, I became acquainted with several secrets, through the medium of the press.

2403. Did it, in your opinion, subserve any useful purpose, or the contrary?
In one case, which happened at Madras, as to preparations at the Fort of Kurnool, we were led to the discovery of certain hostile preparations by the tone of different articles in the Persian newspapers in Calcutta.

2404. Is the native press in extensive circulation in the provinces?
I do not think its circulation was very great; it circulated in Calcutta among the Mahomedans a good deal; but I do not think generally in the interior it has yet attained any wide circulation.

2405. What is the yearly cost of a newspaper?
I cannot say. I took in several newspapers in the Persian language, which I could read, in order to watch their progress; but I do not recollect what I paid for them.

2406. Was the spirit in which they were conducted good, or the contrary?
In 1838, when the Persian army was advancing against Herat, the tone was hostile; but that was a time of great excitement.

2407. Did not that excitement become greater after the disaster at Cabul?
I was not so much in the way of watching the press then. Of course the excitement was great; but I was not at Calcutta, and did not get the Persian newspapers. I dare say it did become greater there, as it did everywhere else.

2408. You were a member of the Council for two years, were not you?
Yes.

2409. Can you give the Committee your opinion as to whether any alteration would be desirable first in the composition of the Council?
I think if two Lieutenant-governorships were given to the civil service of Bengal, it might be quite fair to have the two civil memberships of the Supreme Council open to the whole civil service of India. The best persons might be selected from either of the three Presidencies. It would be necessary to have two members of Council at Bombay and at Madras. Having separate armies, it would be absolutely necessary to have a Council at those places. A Lieutenant-governor alone would not do where he had the army to control, with all its details.

2410. Are the Committee to infer, from your answer, that you are against the abolition of Councils in the cases of the two Presidencies which have armies?
I am against it on this ground, that there are separate armies in both cases; and I do not think an army could be well controlled without a Council, in which the Commander-in-Chief should have a seat; and in such a case it is desirable that the Government should not have the appearance of being that of a single individual.

2411. At present the fourth member of the Legislative Council can only vote upon questions of legislation; what is your opinion as to the expediency of giving him a vote upon general questions?
I certainly would give it to him. His position is a very awkward one, in consequence of his not having a vote; and it prevents his taking that interest in the general affairs of the country which it is desirable he should take, in order to exercise his legislative functions well.

2412. Is there any provision made in the case of a member of the Council dying, for the appointment of some one in his place?

A provisional

A provisional member is almost always appointed; if not, the Governor-general can call a man in for the time. I remember its being done in one case.

2413. From your experience, would you think it possible or desirable to amalgamate the three armies?

In the case of Bengal and Bombay it might be possible, but certainly not in the case of Madras and Bengal.

2414. Then do you think that it would be preferable upon the whole to continue the Government at Bombay and at Madras with a Council and separate armies rather than to abolish the Councils, and amalgamate the armies?

Yes; I do not think the latter could very well be done.

2415. Have you ever considered whether it would be expedient to make any alteration in the constituent body of the Board of Directors in England?

I myself think that the authority of the Court of Directors would soon disappear entirely if it did not rest upon a large corporate body, having long-established and recognized rights: that is my own private opinion.

2416. Do you believe it would be possible to give to persons, in virtue of having discharged the duties of certain offices in India, a share in the constituency?

That is to be obtained by purchasing shares in the Company's stock. There is no necessity for any law to give such a person a share in the constituency. To give him a seat in the direction would be a different question. That would alter the character of a director entirely; it would make him the nominee of a superior authority instead of his being the chosen representative of a large constituency, and I doubt whether the authority of the Court would not be thereby weakened. It would be very useful to have a few men of local experience in the Court of Directors, but still such men do find their way in as it is. There are many men of local experience in the Court of Directors at present.

2417. In your own case, for instance, you had the course open to you of becoming a candidate for the direction?

Yes; but I was deterred from it by the long canvass which it was necessary for me to go through.

2418. Is not that of itself a proof that there is something defective in the present system, when persons who have great acquaintance with the country are deterred from taking a share in the government of it?

It does not deter younger men. I was rather too old to go through the toil of a seven years' canvass, but younger men do not mind it. There are several men in the Court of Directors who are men of very great experience; and there is one Mr. Millett, who is now a candidate, who is one of the ablest men who ever returned from India.

2419. Is not it an inconvenience resulting from the present system, that no person is practically allowed to have a share in the administration of the affairs of India in England, till his knowledge of Indian affairs has grown a little obsolete?

That is an objection, certainly.

2420. Was not Mr. Prinsep a person possessed to an extraordinary degree of all the knowledge which it is expedient that a director should have, from the various offices which he had filled?

He got in after a lapse of seven years.

2421. The Deputy-governor of Bengal is always appointed from among the members of the Council, is not he?

He is.

2422. Do you think that a desirable mode of appointment?

No; I think it would be much better if it were made a substantive appointment by itself.

2423. It causes frequent change in the Government, does not it?

It does; and he has not that one duty which it is desirable he should have. He has his duty as a member of the Council, and his duty as local Governor, and they sometimes rather interfere with each other.

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2424. It is the senior member of the Council who is appointed, is not it?
Always the senior. The Governor-general might depart from that rule if he chose, but it never has been done. It is always in practice the senior member, whether civil or military.

2425. Supposing the alteration to be carried out which the Committee understand you to suggest, you would leave the choice of the Lieutenant-governor of Bengal as free to the Governor-general, as is the case now with respect to the choice of the Lieutenant-governor of the Western Provinces?
Yes.

2426. When you were Lieutenant-governor of Agra, had the system commenced of publishing a selection from the reports presented to Government, which has been since carried on by Mr. Thomason?
That has been done only since I came away. I remember hearing from one of the best-informed men in India, as respects the natives, Colonel Sleeman, that those had been read with great interest by the natives. I speak of reports and orders from the Court of Directors which have gone out, especially those on the revenue settlement.

2427. Do you think the same course might be adopted in the other Presidencies?
I think so.

2428. Have you any alterations to suggest which you think might with advantage be made in the Act under which the East India Company at present govern India?
No; I am not prepared with any.

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned till To-morrow, One o'clock.

Die Martis, 15° *Junii* 1852.

THE LORD PRIVY SEAL in the Chair.

LESTOCK ROBERT REID, Esquire, is called in, and examined as follows:

2429. YOU were in the Civil Service in the Presidency of Bombay?
I was.

2430. You were last a Member of Council there?
I was.

2431. Will you have the goodness to state how long you were in India, and what official situations you held there?
I was in India nearly 32 years; I entered the Company's service on the 31st of May 1817, and, during the first few years of my career, I held subordinate situations under the collectors and magistrates of the provinces of the Konkun and the Deccan. In 1826, I was appointed by Mr. Elphinstone, who was then Governor, to act as Secretary to the Government in the Territorial Department. In 1827, I was appointed collector and magistrate of the southern division of the Konkun, and political agent with the States of Angria and Sawunt Waree. In 1830, the whole of the Konkun, extending from Damaun to Goa, was placed under my charge as Principal Collector and Magistrate. In 1831, I held, for a short time, the situation of Revenue Commissioner; in the same year I was appointed Secretary to the Government in the Territorial and Financial Departments, and subsequently, in 1838, became Chief Secretary. In 1841 I was called into the Council on a temporary vacancy; and in 1844, I took my seat, under the appointment of the Court of Directors, as a Member of Council, and in virtue of that office, was nominated Chief Judge of the Court of Sudder Adawlut; I remained in this position till I left India in March 1849, with the exception of six months in 1846–47, during which I became Governor of Bombay, from the date of Sir George Arthur's retirement, until that of the arrival of Mr., now Sir George Clerk.

2432. The Government of Bombay is carried on by a Governor, with the assistance of a Council?
It is.

2433. What does that council consist of?
It consists of the Commander-in-Chief and two civil members; the Commander-in-Chief is not necessarily a member; but he has always been so appointed by the Court of Directors. The two civil members are selected from among the civil servants of the Company of more than 10 years' standing.

2434. The Presidency of Bombay has a separate civil service, and a separate army?
It has a distinct civil service and a distinct army.

2435. The gentlemen bred up to the civil service are educated at Haileybury?
They are.

2436. Is there any establishment at Bombay where they afterwards perfect themselves in Oriental languages?

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No, there is no such establishment; after they arrive in India, writers are required to pass an examination in two languages, and until they have done so, they are not permitted to perform any public duty whatever; this was the practice when I left India.

2437. Do they remain in Bombay during that interval?
Not necessarily; they are sent generally to some of the out-stations, in order that they may perfect themselves in the languages.

2438. In what languages?
The first language in which they are required to pass an examination, is the Hindostanee; for the second language, they may choose either Murata or Goozratee or Canarese, the three languages in use within the Western Presidency.

2439. During that time they are sent into the country?
They are generally sent into the interior; those who happen to have friends at Bombay may remain there; others are placed under the charge of the different Collectors, but are not allowed to perform any public duties; this, in my opinion, is an error.

2440. Are there public instructors of languages?
Certain Moonshees, who after examination have been declared qualified to instruct in the native languages, are the only persons whom the young civil servants are authorized to employ as their teachers.

2441. Are they the examiners?
No; they are not the examiners.

2442. Who are the examiners?
The examiners are members of the civil and military services, and sometimes Oriental scholars not in the service, appointed by the Government for that purpose.

2443. Should you see any advantage in having at Bombay an institution similar to the Calcutta College?
I do not think there would be any advantage in such an institution in Bombay.

2444. Do you see, on the contrary, any mischief arising out of that institution?
I think mischief must arise from keeping so many young men at a place like Calcutta, for the sole purpose of being instructed in the native languages.

2445. Has it had any effect upon their moral habits?
I think it necessarily must have an injurious effect on their moral habits; I have always understood this to be the case in Calcutta, but I do not speak on this point from personal experience.

2446. Did not (about that time) the practice prevail, of retaining the young civil servants at Bombay systematically for the purpose of learning the native languages?
I do not think it ever prevailed as a rule; they might have been retained at Bombay when they happened to have friends there who would take charge of them.

2447. In such a case as that, where they have friends residing there who can take care of them, you see no objection to it?
I do not see any particular objection; I would however prefer that they should be sent at once into the interior, and authorized to commence learning their duties.

2448. You would wish them to begin at once upon some fixed duties?
They should pass as early as possible in their first language; their acquisition of the second would be much facilitated by their mixing with the people of the country, in the performance of such petty duties as the collector or the magistrate might see fit to assign to them.

2449. You see no difficulty in duties being assigned to them which they could discharge without a knowledge of the languages?

None

None whatever; they might examine the records of the office, attend while the Magistrate or Collector is transacting his business, and perform trifling ministerial offices. This would afford them employment, and at least keep them out of harm's way.

2450. Are they generally appointed as subordinates to some European civilian?

They are always appointed as subordinates at first, even after they have passed in the languages.

2451. With respect to the finance arrangements of the Presidency of Bombay, are they entirely under the control of the Governor in Council, or are they subject in any manner to the Governor-general?

The whole of the financial arrangements may be said to rest with the Government of India, rather than with the Governments of the Local Presidencies. The detail of the management, as far as each Presidency itself is concerned, of course falls to the Governor in Council of that Presidency.

2452. What is the principal source of revenue in the Presidency of Bombay?

The land revenue, as in all other parts of India.

2453. Is that upon a permanent footing?

No; there has been no permanent settlement of the land revenue. Measures are in progress for fixing the assessment on the land for a period of 30 years. Surveys are being carried on for this purpose, but they have not as yet extended over the whole of the Presidency.

2454. Does the revenue arise from customs duties of any kind?

A revenue is derived from sea customs at the out-ports, and also from land frontier duties; there are no internal customs. A large revenue is realised from the opium produced in Malwa, which comes down to the port of Bombay for shipment to China.

2455. You held a situation in a district which extended to Damaun. Did you become acquainted with the trade of Damaun?

Not particularly; the trade of Damaun was very limited, except at the times when the opium proceeded by that route to China, without coming to our ports.

2456. Are you aware of the quantity that passed through Damaun to China before the conquest of Scinde?

No; I am not able to state the quantity from memory.

2457. Are you aware of the great diminution in quantity which took place after the conquest of Scinde?

It had diminished very much; I believe, in point of fact, it was almost entirely destroyed before the conquest of Scinde.

2458. Do you happen to recollect the amount of duty levied on the passes at the commencement of that system by Sir John Malcolm?

I think it was 75 rupees per chest.

2459. What is the amount now?

It is now 400 rupees per chest.

2460. What was the total receipt when Sir John Malcolm instituted that arrangement?

I cannot state this with accuracy without reference to official documents; but I think a few years after the passing of the Act in 1830, the Government realised in one season, after paying all expenses, about 35 lacs of rupees; this was during Sir John Malcolm's or Lord Clare's Government.

2461. Has not the duty in the pass been raised within the last few years from 125 rupees to 400?

I think it was raised first from 125 to 300, and then to 400.

2462. You state that the finances of the Presidency of Bombay are under the control of the Supreme Government. Do you consider that arrangement as a salutary check upon local influence, or rather as an injurious interference with the due exercise of local knowledge?

I think it acts both ways; I think it is sometimes a salutary check upon imprudent

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imprudent expenditure, but I doubt whether it is not also very often a check upon prudent expenditure.

2463. What was the impression upon your own mind during your own experience?
The impression upon my mind was, what the impression of a subordinate naturally would be, that the representations of the local government were not always allowed due weight. We felt ourselves precluded from recommending much which we deemed very advantageous, but which we feared might not be so considered in Bengal.

2464. Do you think that great advantage would be derived to the Presidency of Bombay, if one civil officer from the Bombay Government had a seat in the Supreme Council?
I think great advantage would be derived from it.

2465. Still continuing the Council at Bombay?
Still continuing the Council, which I hold to be quite essential, at Bombay.

2466. And that he should not be considered in any degree as a delegate from the Government of Bombay, but merely as a person acquainted with its peculiarities?
He should be in exactly the same position as the other members of the Supreme Council, giving his opinion upon Bengal matters as well as upon those relating to Bombay.

2467. Have you found, upon any proposals for applying the surplus revenue towards improvements within the Presidency of Bombay, that you have met with a refusal?
We have often met with refusals, but not exactly as to the application of surplus revenue, because we have no surplus revenue.

2468. You are rather a burden financially?
We certainly appear to be so; but this admits of explanation.

2469. You are a burden, because at your frontier you must have an army beyond your means of support?
Clearly, and our establishments, as a small Presidency, are greater in proportion than those of a large one.

2470. Are the expenses of the Government of Scinde included in the expenses of the Government of Bombay?
They are so.

2471. Does the Government of Bombay carry on its correspondence direct with the home authorities?
Its principal correspondence is with the home authorities.

2472. Are there any duplicates of that correspondence sent to the Governor-general?
Yes; and in matters of importance, when the Governor-general is absent in the Northern Provinces, one copy is sent to the Government in Calcutta and another to the Governor-general, wherever his camp may happen to be.

2473. To what points is the correspondence with the home authorities confined?
It is confined to no particular point. The Court requires a separate report to be made to it of everything of importance, and quarterly letters on matters of less moment.

2474. Do you mean all the information you can pick up upon all subjects?
I do not allude particularly to statistical information. Every proceeding, except those of mere ordinary routine, connected with the administration of the Government, must be noticed to the home authorities.

2475. Do you think it is within the competency of the Bombay Government to report any matters except such as have to do with the administration of the Bombay territory?
It has upon all occasions conveyed intelligence of passing events, as being able to do so from the favourable position of Bombay.

2476. Matters of news that they pick up from private letters?
I have known such to be the case; it was at one time very much the system.

2477. Did not the Secretary keep up a correspondence with officers and other persons in different parts of the country, and communicate in official letters to the Secret Committee the substance of those private letters which he received?
He might have derived his information from his own correspondents; but I believe he availed himself also of the correspondence kept up with their distant friends by many other individuals at the Presidency.

2478. So that a letter to the Secret Committee was like the leading article of a newspaper?
It was merely a *précis* of news of public importance, the value of which was on more than one occasion acknowledged.

2479. It was not information respecting private persons, but information derived from private persons relating to the state of the country?
Yes.

2480. It was not confined to the Presidency of Bombay, but had reference to what was passing in other parts of India?
Yes, and to what was passing in China, and other parts of Asia.

2481. Was any communication made to the Governor-general of that information sent home?
A copy of every despatch to the home authorities was sent to the Governor-general, but there was no direct letter written to him conveying the same information.

2482. Do you consider this mode of carrying on the correspondence with the home authorities and with the Governor-general as the most efficient mode of conducting the business?
The correspondence is necessarily extremely voluminous, but, under the system of Government, both at home and in India, I do not see how this can well be avoided.

2483. Do the Government of Bombay receive instructions from home without passing through the Governor-general?
Yes.

2484. On the same subjects on which they receive instructions from the Governor-general?
I have never known them to clash.

2485. If they receive inctructions from the home Government before they receive instructions from the Governor-general, or *vice versâ*, do they act upon the one or the other without waiting for instructions from both?
I do not recollect that such a case ever occurred; should it do so, the Government would exercise its discretion in suspending the execution of the orders, and again submitting the matter to the authorities.

2486. Is there any classification of subjects, some of which are considered as more especially within the cognizance of the home Government, and others within that of the Governor-general?
All matters connected with expenditure and public works in which the sum required exceeds that which the subordinate government is allowed to expend of its own authority, go, in the first instance, to the Government of India; it has often occurred, that after lying there some time for consideration, the Government of India has referred the question to the home authorities; a course which might as easily have been adopted by the local government in the first instance.

2487. Is not it considered usual for the Government of India to do that, whenever it is difficult to come to a decision?
I suspect it is.

2488. That difficulty would be obviated by appointing a Bombay member in the Supreme Council?

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It might to a certain extent, since the presence of such a member might induce the Government of India to take upon itself the responsibility of sanctioning the expenditure required.

2489. Is the correspondence relating to the administration of the marine, carried on directly with the home authorities, or through the intervention of the Governor-general?
I do not think the Governor-general is ever written to on matters relating to the Indian Navy, unless in matters of expenditure where more than 1,000*l.* is required, as, for instance, in building or repairing ships, &c.

2490. All the general correspondence relating to the marine is carried on direct with the home authorities?
Yes.

2491. Is the correspondence on questions relating to the management of affairs at Aden carried on direct with home?
Since Lord Hardinge visited Aden on his passage to India, the correspondence relating to that place has gone to the Governor-general.

2492. On the whole, do you conceive that the affairs of Bombay are better or worse managed since greater subordination to the Supreme Government has been established?
I do not see in what way there has been any improvement. I think the Bombay Government has found its hands tied for good purposes. I do not know that the control of the Supreme Government has ever been exercised so as to be productive of any obviously good effects.

2493. What is the length of the postal communication between Calcutta and Bombay, and between Bombay and Simla?
About seven or eight days to Calcutta. Allahabad, I think, is not above five or six days. By express the time would be much diminished.

2494. If there were not the delay arising from the accumulation of business in the hands of the Supreme Government, the mere loss of time in making the communication would be of no importance?
No.

2495. But, on the whole, you think the contrary practice would be an improvement?
I think it would.

2496. Do you think that much convenience and no inconveniences would be produced by the appointment of a civil member of the Bombay service as a member of the Supreme Council?
It would give much information to the Supreme Council, which would enable it better to dispose of matters referred to it.

2497. With regard to public works in Bombay, the money required for which must be derived from the general government, do the Government at home in any case sanction such expenditure, without reference to the general Government of India?
They often do so without reference to the Government of India.

2498. Do you think there is any disposition on the part of the Government of Bengal to treat the people of Bombay with less liberality than they exercise towards the people of Bengal in respect of grants of money for public works?
I am inclined to think that such disposition has existed, arising, probably, from want of knowledge or want of interest.

2499. Do you think that a smaller proportion of the revenues of India is spent upon public works in Bombay than is spent in Bengal?
I do not possess sufficient knowledge of the expenditure on public works within the Bengal Presidency, to enable me to give an opinion on this point.

2500. In what mode is the patronage distributed in Bombay, in the civil service?
All nominations to offices originate with the Governor; but it is competent to the members of Council to object to those nominations if they see just cause, and to record their objections. In practice it is not quite a settled point, whether

whether the objections of the members of the Council, if they are in the majority, should overrule the nomination of the Governor; the law, I believe, makes no distinction in the matters to be decided by the majority, but in cases of great importance the Governor can act on his own responsibility.

2501. That is to say, the Governor might overrule the opinion of the Council, if he thought it was a matter affecting the interests of the country?

He certainly can do so, and has been authorized by the Court to do so in some instances, though this seems to me a large interpretation of the Act of Parliament; when myself in Council, I deemed it sufficient to state my objections in a minute, and, if I found the Governor was not convinced by my representations, and persisted in the nomination, I deferred to his opinion, keeping my objections on record. This course was generally, though not always, adopted by members of Council.

2502. Does he select for appointments in the service generally, at his own option, or is there any gradation in the appointments?

The civil service is essentially a seniority service; and in that, I think, exists one of its main advantages.

2503. Then the Governor is practically limited a good deal in his appointments, by being obliged to choose from among the seniors?

Yes; but it rests with him to exercise a power of selection; this is often done. The power of selection for political appointments is exercised very largely in favour of military officers, who are, equally with civilians, qualified to hold those situations.

2504. Are the military appointments made by the Commander-in-Chief?

Certain military appointments are considered the patronage of the Commander-in-Chief; others are the patronage of the Governor. The right of nominating to offices connected with finance, such as the Military Auditor-general, the Military Accountant, Paymasters and Commissariat Officers, is vested in the Governor. To those connected with the discipline of the army, such as the Adjutant-general and the Quartermaster-general, the Commander-in-Chief appoints, but his appointments require the confirmation of the Governor in Council.

2505. In the Judicial Department, how are the appointments made?

They are made by the Governor in Council in the same way as are all appointments in the Civil Department; the higher judicial offices are usually filled by servants who have served a long time in the judicial line.

2506. Do they rise from being head of one court to another higher court?

All the Judges presiding over the provincial courts, exercise the same jurisdiction and receive the same salaries. They do not always rise by seniority to seats in the Court of Sudder Adawlut, but generally speaking, they do so.

2507. Are there not many instances of appeals from the courts in the Presidency of Bombay to the Privy Council?

There are many instances, I believe; however the decrees of the Sudder Court have been very much upheld by the Privy Council.

2508. They are themselves a court of appeal from the lower courts?

They are so.

2509. Do you consider that the education which the civil servants have is such as fits them well for judicial appointments?

Their training in India is faulty, inasmuch as the junior servants appointed to judicial offices have no original jurisdiction in civil cases. I may observe also, that I consider the education which the civil servants receive in England defective to a certain extent. Too much attention is paid to studies which they could much more easily and much more quickly acquire in India. I mean the study of the native languages.

2510. You refer to the education at Haileybury?

I refer to the education at Haileybury. I think that might be much improved.

2511. In what point do you think it is deficient?

 I would

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I would recommend greater attention to the studies of jurisprudence and history, particularly to the history of India since the connexion of that country with England. I would desire also, that some attention be paid to mechanics, surveying, geology, chemistry, and other branches of science. There is hardly a subject within the whole range of science on which a civil servant may not, upon some occasion during his career, be compelled to form, and probably record, an opinion.

2512. Do you think that within the time to which the education is now limited, it would be possible to introduce those subjects?

I think it would be desirable to allow young men to join the Indian service later in life than they do at present. They now go out between the ages of 19 and 22; 22 is the maximum age.

2513. Have you ever had occasion, with respect to the question of the education best fitted for the Indian service, to compare the education given at Haileybury with the course of instruction at the English universities?

No; having been so long absent from England, I am unaware of the exact nature of the education at the universities; but I should think it would hardly be suited to the purpose, in consequence of its requiring so much attention to be paid to classical literature.

2514. You are aware that at Haileybury there is a systematic course of instruction in history, and in political economy, and in matters of that description, which do not enter into the general examination in our old universities?

Yes; but I do not think that sufficient attention is paid to those subjects, and to the others to which I have above alluded.

2515. You attribute that to the shortness of the time which the young men are allowed to remain there?

Yes, and to so much time being occupied in the study of the Indian languages.

2516. Do you consider that the study of the native languages can, under any probable hypothesis, be carried on with as much effect at Haileybury as in India?

Students at Haileybury enjoy the benefit of very able instructors, superior to those now to be obtained in India; but I have no doubt that under a proper system, ample means of instruction might easily be procured in the latter country.

2517. With respect to the instruction given at Haileybury, have you formed any opinion whether the Sanscrit literature occupies too large a portion of the time and of the intellectual labour of the young men?

From what I hear of the course of education there adopted, I think it does so.

2518. And that, with advantage, the more modern and practical literature of the East might be substituted for that which is the classical ancient language?

I think the rudiments of the vernacular languages ought rather to be studied.

2519. You would wish to preserve a certain grounding in those eastern languages in education at Haileybury?

This I think is very desirable.

2520. Is the study of the Persian useful?

The study of Persian is of use, as that language enters largely into the composition of the Hindustani. It may, however, be of more use now than it has been on our side of India, inasmuch as it is a language well known in Scinde. Formerly all the judicial proceedings of our courts were conducted in Persian. This was a great anomaly. The practice was abolished during the Government of Mr. Elphinstone, who introduced the use of the language of each district.

2521. Are not the laws now translated and promulgated in Persian?

They are; it is a mere form; I believe there are few who understand that language throughout the Bombay Presidency.

2522. How

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2522. How are the laws made known in Bombay, so as to be brought to the knowledge of the natives through their own languages?

They are always published in the English, and in three or four native languages in the "Government Gazette," a paper issued weekly, and containing Government orders and advertisements.

2523. Do you find any great difficulty in procuring correct translations of those laws?

Many Indian philologists say it is impossible accurately to translate them; but translations, such as they are, are made.

2524. But are they understood?

Those upon ordinary subjects are so; but such matters as involve technicalities of the English law cannot be intelligibly put into the native languages.

2525. Do you consider that the technicalities of the English law, as promulgated in the form of statutes, are intelligible to the great mass even of the English people?

I should think not.

2526. Under what system of law is the Bombay Presidency?

The existing code of law was compiled during Mr. Elphinstone's government; it is usually called the Elphinstone Code of 1827. It has been added to as occasion required.

2527. Was that in part compounded of Mahomedan law?

No; the Mahomedan law cannot be said to be known in the Presidency of Bombay, except in cases of inheritance, &c. among Mahomedans.

2528. Have you at Bombay any means of obtaining the opinion of the natives with regard to any law which is proposed to be passed?

We might have the means if we desired to avail ourselves of it; but the attempt has never been made to obtain that opinion.

2529. Are intended Acts promulgated before they are passed?

They are always published as drafts in Calcutta.

2530. Are they published in that form in the other Presidencies as well as at Calcutta?

They are so.

2531. So that public attention is called to them?

Yes.

2532. By that means are they enabled, if there was a strong feeling on the part of the natives against any law which was proposed, to bring it to the attention of the Government?

Yes.

2533. Is the spirit of the natives such, that if they saw reason to question any part of a proposed law, they would be likely to bring it before the notice of the Government in some shape or other?

I hardly think they would do so, except upon some very important question, such as that of Suttee, or any matter connected with their religious feelings.

2534. Has any instance occurred where the natives have expressed an opinion upon a public matter?

I do not recollect any instance upon our side of India in which they have done so.

2535. Was that code of Mr. Elphinstone's in 1827 translated into the native languages?

Yes.

2536. Was there not a case recently at Bombay in which a native woman married a Christian, and the family of the native woman made strong representations, and endeavoured to take her away from her husband; and did not that come before the civil courts?

I have some recollection of a case in which the family of a Hindoo woman desired to take her from her husband who had become a convert to Christianity.

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2537. Was that under any recent law?
I can hardly say whether it was or not; I think the case occurred at Madras, and not at Bombay.

2538. You are acquainted with the law passed in India, preserving to Christian native converts their rights of property?
Yes.

2539. Was there any feeling expressed against that law at Bombay?
None that I ever heard of.

2540. You are aware that it had been the law of Bengal for 10 years antecedently to its passing for the other Presidencies?
It had. I have an impression that this law was contained in a clause of some Act which had not much reference to the subject.

2541. You spoke of the Elphinstone Code, and of its being the law regulating the Presidency of Bombay; that code affects natives only?
It affects natives only; it is not meant to affect British-born subjects.

2542. How was that code compiled?
It was compiled from Regulations which had been previously in existence. The first Bombay Regulation was passed in 1799. All Regulations from 1799 to 1826 were abolished, and the new code was in substitution framed upon them, with such emendations as were considered desirable. In those days the Government of Bombay had the power of legislating for its own Presidency.

2543. Was that code founded in general upon the laws of the country?
Not particularly upon the laws of the country, but rather on general principles of justice and equity.

2544. Was it civil as well as criminal?
It was civil as well as criminal; regulating likewise all matters connected with the administration of the land, and of the branches of the public revenue. As a civil code, its chief operation was in regulating civil procedure. It did not alter the existing rights of property.

2545. Can you state whether there was any minute left by Mr. Elphinstone on the subject of the anterior state of the law, and the improvements made by that code, and the reasons for it?
I presume that such a minute must have been recorded by Mr. Elphinstone, but I do not at the present moment recollect its exact purport.

2546. Are you aware by whom that code was prepared?
It was prepared under the orders of the Governor, by a committee of English officers, whom he appointed for that purpose.

2547. Are you aware how it was translated, and under what authority?
It was translated under the authority of the Government, by the Government translator. That office was then held by a celebrated Orientalist, Colonel Vaus Kennedy.

2548. Have you known any difficulties arise in the administration of the laws, springing out of a doubt as to the fidelity or meaning of such Asiatic translations?
I have found the translations very often extremely defective, so much so, as in some instances to convey an affirmative, instead of a negative meaning. I have known suits carried into court upon the faith of the translation, when the English (which is deemed the standard) version, was entirely adverse to the claims advanced.

2549. Do you consider that that arose out of any difficulty in applying the principle of translation to the particular Regulation, or that it is a difficulty inherent in the principle of translation itself?
In the cases to which I allude, it was more the effect of carelessness.

2550. Has this code of law in Bombay been found to work well?
I think it has worked admirably well. I believe it was Mr. Elphinstone's intention, when he prepared the law of 1827, that it should be periodically revised; that is to say, that after every 10 or 20 years, the original code, with all subsequent enactments, should be consolidated by a competent committee, and

and that a new code should be formed, containing such improvements as experience might show to be necessary.

2551. Do you think that a similar code could be extended to the other Presidencies, so as to have a uniform system throughout India?

I think a plan similar to that adopted in Bombay in 1827 might very beneficially be carried out at the other Presidencies. By this means the necessity of wading through the immense volumes of which the law now consists, would be obviated.

2552. Was that code simply a collection and compilation of the existing Regulations which had been issued by the Government from time to time, or was it an amalgamation of those Regulations with the existing native laws?

It was a compilation to a certain extent of the Laws and the Regulations at the time existing, with certain alterations and improvements, which were recommended by the Committee appointed by Mr. Elphinstone's Government.

2553. But a code which suited the Presidency of Bombay, where the Mahomedan law has never existed, would not be applicable without material alterations to the province of Bengal, where that law did exist?

No; where the Mahomedan law is in existence, with regard to other matters than the mere rights of inheritance, &c. among persons of that religion, of course it would not be so applicable.

2554. If the Mahomedan law was the criminal law of the country, the Bombay Code would not be applicable to that portion of the country?

No.

2555. Is the Governor of Bombay in the habit of making tours throughout the Presidency?

The Governor of Bombay has occasionally made tours; but he is often absent from the Island of Bombay, though such absences can hardly be termed tours. He usually proceeds to Poonah (in the neighbourhood of which city he has a Government residence) during the rains, and to the Mahableshwur Hills during the hot weather, so as to avoid at those seasons the damp climate and heat of Bombay.

2556. There is nothing in the law to prevent his visiting any part of his Presidency?

It is a doubtful point whether, unless his absence be under the sanction of a special Legislative enactment, he is not *functus officio* as soon as he leaves the Presidency.

2557. How is the Government carried on when the Governor is absent?

Much the same as when he is present; all papers are referred to him, in order that he may originate the proceedings upon them, except mere matters of routine, which he requests may not be so referred.

2558. Then it only creates delay?

If he is close to Bombay, his absence creates very little delay.

2559. He rarely goes to any distance?

Not any great distance.

2560. Did not Lord Clare go to visit the Southern Jaghiredars?

He did so; he visited also the northern provinces of the Presidency, and on one occasion joined the Governor-general at Ajmeer.

2561. How did he carry on the Government when he was at Ajmeer?

He certainly must, in the eye of the law, have then been *functus officio*, as being beyond the limits of his own Presidency.

2562. Were you ever in the country of the Southern Jaghiredars?

I never was in the Southern Murata country, but I was long in the adjoining district.

2563. Have you ever been in Madras or Bengal?

I have merely visited the capitals for short periods.

2564. You have not had an opportunity of observing the state of the distribution

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tribution of property in those provinces, as compared with what exists in Bombay?

I have had no such opportunity.

2565. Are there many native gentlemen of considerable landed property under the Bombay Government?

If, by landed property, is meant property which is exempted from the payment of revenue to Government, there are many; in some districts nearly half, and in all, a very large portion of the land revenue is alienated in that manner, which is one of the causes which prevent Bombay paying its expenses.

2566. Has that exemption taken place under a recognition of the grants of former Sovereigns?

Yes.

2567. In former times, when those grants were made, were not certain duties attached to the lands so granted?

In most cases duties were required in the first instance.

2568. Military service?

Military, and often other services; in many instances, the service has been neglected or relinquished, and the grant has been continued through favour, and under prescription.

2569. Do you think it would be advantageous for the country, if the Governor of Bombay were to make more frequent progresses throughout the province?

I think much must depend upon the individual who may happen to be the Governor. If he be a man possessing Indian experience and a knowledge of the native languages, customs and habits, he might do much good by visiting the provinces. Tours of Governors not possessing these qualifications would not, in my opinion, be productive of much advantage.

2570. You think his mere presence in different parts of the province, would not be of much advantage?

I think it would be hardly commensurate with the expense. The home authorities seem to entertain this opinion, for when Sir Geeorge Arthur applied for permission to make a tour, they declined to grant it.

2571. But the expense of the tour of a Governor of Bombay is not very considerable, is it; does it amount to more than the carriage of his baggage?

The secretaries in attendance upon him, with their establishments, and all the persons upon his staff, are entitled on such an occasion to extra allowances. The expense incurred in the carriage of baggage, and charges of that nature, amounts to rather a large sum.

2572. During the time you were at Bombay, did you ever form any opinion with respect to the trade in cotton from Oomrawattee, which goes through the district in which you were resident?

The cotton from Oomrawattee passed through the Konkun and the Deccan, with both of which provinces I am acquainted.

2573. Did you perceive that there was any improvement in the cotton during the time you were there?

I do not think there has been any improvement in this cotton, of late years. There has been a great increase in the quantity brought to Bombay. The trade by this route has existed but a very few years. I do not think there was any trade whatever before 1835.

2574. Was not there always a large quantity of cotton sent to China from Bombay?

Yes; but that was in former times only from the provinces of Guzerat and Kattiawar, and not from Oomrawattee.

2575. Where is Oomrawattee?

In the province of Berar, in the centre of the Peninsula of India.

2576. Did you ever see any of the establishments for the cultivation of cotton under the Government?

No, I never personally visited them.

2577. Did

2577. Did you ever see any of the machines for cleaning cotton?
I have often seen them, both the common native churka, and improved machines sent from home, which I have seen tried in Bombay.

2578. Were they circulated amongst the native cultivators?
In the Southern Mahratta country some cleaning machines were much circulated; but these were rather improvements upon the native wheel than machines of European invention.

2579. Do the exporters of cotton take pains to clean it before it is sent to England?
No, I am sorry to say they do not; if they did, it would bear a higher price.

2580. Is not the Oomrawattee cotton when cleaned as good as any cotton that comes into the English market?
As far as its appearance goes, it is good when well cleaned; with respect to the fineness of the staple, it does not compete, I fancy, with the Bourbon or with the New Orleans cotton.

2581. In consequence of not being cleaned, does not the strong pressure, which is necessarily applied in order to fit it for transit to England, break the staple, and mix a quantity of dirt with the cotton itself?
Yes, it must do so; the bruised cotton seed and dirt must much injure the quality.

2582. Have they had any persons from America to teach them the process?
Several Americans have been sent from England by the Court of Directors, and have superintended establishments under the Government.

2583. Do you know what their opinion was of the quality of the cotton?
I do not think much faith was to be placed upon their opinion; they never seemed to me to enter with much spirit into the undertaking.

2584. As if they did not much wish it to succeed?
As if they did not much wish it to succeed.

2585. Did you ever consider whether, in proportion to the expense laid out, that native Indian cotton properly cultivated and properly cleaned was not, in fact, better than any American cotton which has ever been cultivated in India?
I think I have heard our European merchants in Bombay say that it was at least equal in quality.

2586. What are, in your opinion, the chief obstacles to the cultivation of the Indian cotton?
The great obstacle is the smallness of the price which is obtained for it.

2587. Does not the smallness of the price depend upon the inferior quality of the article?
The smallness of the price depends entirely upon the price of American cotton with which it comes into competition.

2588. And the expense of freight, on account of the great distance it has to be brought?
Yes; I imagine also, that one cause is the difference in the quantum of production in America and in India. A certain extent of country will not produce the same quantity of cotton in India that it does in America. The soil is not, generally speaking, so favourable.

2589. Is not the neighbourhood of the sea considered most favourable for the cultivation of cotton?
Not for all descriptions. I believe only for the Sea Island cotton.

2590. Is not Guzerat considered more favourable to the cultivation of cotton than any other part of the Bombay territory?
It is; but not from its proximity to the sea, but rather from its fine rich alluvial soil.

2591. Your opinion is, that the great distance which the cotton has to be brought is the chief obstacle to the progress of the cultivation?
The great difficulty is bringing the cotton in a marketable state to market.

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2592. Oomrawattee is at a very great distance from Bombay?
It is; the cotton is liable to be deteriorated in its transit. It is transported in very large loose packages, along rugged and dusty roads, and becomes filled with dirt in the daily process of loading and unloading the bullocks.

2593. Have not all attempts which have been made to make the Nerbudda navigable failed?
They have; it never could be done, except by contiguous canals.

2594. Do you think that the proposed line of railway will make considerable difference in the facility of bringing the cotton to the port?
I think it will give great facility in bringing the cotton to the Presidency.

2595. Is the present mode of transporting it by carrying it on bullocks?
On bullocks and in carts.

2596. If sufficient means of conveyance were provided, do you think that Indian cotton could compete in our market with the American?
I do not see why it should not, if care be likewise taken in its preparation.

2597. Do your observations respecting the non-improvement of the quality of the cotton within your experience, apply generally to the mass of cotton that is produced in the country, or do they apply also to the results of the experiments which have been made for the improvement of the cotton?
I have no doubt a great deal has been done by those experiments, inasmuch as New Orleans cotton has been introduced in our southern districts to a very large extent of late years.

2598. Is that near the sea?
No; in the southern plain of the Deccan.

2599. Are you of opinion that in those cases in which peculiar care has been taken, and new seed has been introduced, an improved quality of cotton has been introduced into India?
There can be no question of this; cotton of a very good quality has been produced.

2600. Is the native mode of cultivation extremely defective?
I am not aware that the native mode of cultivating cotton is defective. It is rude, as is all other native cultivation as compared with that of Europe; but it seems perfectly fitted to the plant and to the soil. American ploughs and other agricultural implements have been tried, but without much success.

2601. Your opinion is, that if there were greater care taken in preparing the cotton, and greater facilities were afforded for its conveyance to the sea-port, Indian cotton, grown on the Bombay side of the country, could fairly compete with the American?
I think it might; I think these are the two most material points to which our attention should be directed; viz. proper cleaning, and facility of transport.

2602. Those two points being granted, you think there could be a large supply obtained of Indian cotton?
I think there could; because labour is extremely cheap in India.

2603. Are you aware of any disadvantage which India suffers in respect to the freight from Bombay to England, as compared with the freight from the United States?
As far as I understand, the Americans can sail their ships cheaper than we can.

2604. Have you ever compared the freights from Bombay with the freights from the United States?
No, I never had occasion to do so; freights from Bombay have been of late years much reduced.

2605. Have you anything further to state upon the subject of the control of the home Government over the authorities of Bombay; is it, in your opinion, injurious in any way?
No, I think not; I would rather see the control of the home authority extended, and that of the Supreme Government in India diminished.

2606. You are clearly of opinion for retaining the Council to assist the Governor?

Unquestionably; I think it is very essential whoever may be the Governor, whether he have Indian experience, or whether he be a nobleman or gentleman from England unconnected with India.

2607. You think that the local experience of a person trained up in India would not be sufficient to enable him to dispense with the assistance of a Council?

No, I think it would often require to be checked.

2608. You would not approve of any change in the system that would have the effect of reducing the Governments of Madras and Bombay to the same position as the Governments of Agra and Bengal?

Undoubtedly not; I do not think the cases of Bombay and Madras are at all analogous to those of Agra and Bengal; at Agra the Governor is merely a Commissioner, though dignified with the name of Lieutenant-governor; he has no army or navy to control, and no distinct civil service; he has no political duties, and has moreover no Queen's Supreme Court, and no large commercial public, European as well as native, at the seat of his Government.

2609. Is not the civil government in his hands, just as much as it is in the hands of the Governors of Bombay and Madras?

The ordinary civil government is in his hands, but he is differently situated in respect to the points I have above mentioned.

2610. Have you known any complaints of want of secresy in the proceedings of the Government?

Such complaints have been made ever since I can recollect; I have always understood that it was not peculiar to the government to which I belonged, but that it applied to all the Indian Governments.

2611. Can you suggest any mode by which that could be remedied?

It would be impossible to do it, except by the Governors and the Secretaries taking things more into their own hands, and not trusting to subordinates.

2612. Is the information supposed to be obtained through natives?

It is either through natives or uncovenanted Europeans and Anglo-Indians, who are in the Secretary's or other offices of Government, and who are easily induced by natives to give them any information that they wish to obtain.

2613. Could not that be remedied by employing a higher class of clerks from Europe?

It would be difficult to remedy it even by that means. If a native wants information, and will pay for it, he will not find much difficulty in obtaining it.

2614. Have you any British-born subjects in the inferior offices in the Secretariat department?

Yes, many.

2615. Uncovenanted servants?

Yes.

2616. Not half-caste?

As well half-castes as Europeans who have gone out for chance service in India.

2617. What is the highest amount of their emoluments?

In the Secretaries' Offices, I think, about 600 or 700 rupees a month.

2618. What is the price of the house-rent of a person who receives that salary?

I suppose not above 60 or 70 rupees a month.

2619. Does he keep a carriage?

Everybody must keep a carriage of some description, even if he has only 100 rupees a month.

2620. Does he not, in fact, live at a very large expense beyond what his salary would defray?

Not necessarily.

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2621. Does he not in practice?
I have known instances where the income has apparently been exceeded, but I have known other instances where the expenditure has been kept within the salary.

2622. Are they generally married?
Generally.

2623. Does not that entail great additional expense?
Great expense; particularly in conveyances, and in the struggle to keep up appearances among persons of their own class.

2624. Does it not frequently entail the expense of sending the wife home, and the children home to be educated in this country?
Yes.

2625. Can all that be done upon a salary of 600 or 700 rupees a month?
Yes, with prudence. Many officers in the army are able to maintain their families in a higher rank of society who receive smaller emoluments.

2626. Do you think that the salaries of the subordinate persons in the Government departments are sufficient to enable them to meet their expenses?
I think they are sufficiently large for the duties which they have to perform.

2627. Are there many natives employed as clerks in similar situations?
A great number.

2628. What proportion do their emoluments bear to those of Europeans so employed?
The emolument is attached to the office. It does not depend upon whether it is held by a native or a European; a native might be appointed to the office of head clerk in any branch of the Secretariat, if the Secretary thought him a fit man.

2629. Are there many natives employed in such confidential situations?
There are.

2630. From what class of natives are they chiefly selected?
They are generally Hindoos, either Bramins or Purvoes.

2631. Are there many Parsees employed in the Government offices?
A great number.

2632. Do you generally consider them equally efficient and equally trustworthy with other natives?
Certainly.

2633. Have any Parsees ever risen to any high employments in the service of the Government of Bombay?
I do not recollect any who have risen very much beyond their compeers.

2634. Have you reason to think that you can place complete confidence in the natives so employed in the public offices of Bombay?
That is a difficult question to answer. I think the scale of native morality is certainly inferior to our own, so far as political morality is concerned. I have no reason for thinking that their morality in private life is not equal to that of any other nation, but in their relations with the Government, I doubt whether they can be trusted as Europeans.

2635. Have you reason to think that information which has been obtained by persons so employed in the public offices has been communicated in other quarters?
There is not the smallest doubt of it, and that in every direction.

2636. Do you think that persons in the higher offices of the departments take all the care they might to preserve secresy?
I think that more secresy might be enjoined, and that more care might be taken; but I am not aware that it has ever been discovered that there has been any deficiency in the endeavour, on the part of the higher officers, to enforce secresy.

2637. Is there any reason to suppose that the information so obtained has come through the channel of the native servants of the Government rather than through Europeans?

I should think it has come more from Europeans and Anglo-Indian subordinates than from natives.

2638. Do you recollect the abolition, by the Act of 1844, of the inland customs duties of Bombay?

I recollect the abolition of these custom duties in 1838, when the existing duty on salt was imposed.

2639. Was that a measure of very great public benefit?

I think of great public benefit.

2640. Had it not been very long under consideration?

It had been some time under discussion.

2641. Was there not an Act in 1844 which abolished a great number of those which remained?

The Act of 1844 abolished all town duties, shop and other taxes not forming a part of the land revenue.

2642. The Court of Directors has the power of recalling all its servants from India, from the highest to the lowest?

Yes.

2643. Including, not only the Governors of Bombay and Madras, but the Governor-general of India?

I believe so.

2644. Have you considered the question whether you would think it important that in any renewal of the Charter Act the Court of Directors should retain that power?

I have considered it, and I think that the power ought to be retained; I think it is very necessary to uphold the authority of the Court of Directors, who really possess very little power; I should be very sorry to see that little in any way diminished.

2645. You are aware that the political affairs are carried on between the Secret Committee of the Court of Directors and the President of the Board of Control?

Yes.

2646. So that the Court of Directors have not, necessarily, any knowledge of them?

No.

2647. Therefore, the Governor-general might be recalled by the Court of Directors upon certain grounds of which they had no official knowledge; that is to say, they might recall the Governor-general upon an opinion with respect to something which had been done as to which they had really no official knowledge?

I am not aware how that could occur, because the Court of Directors could not act unless under complete knowledge of the facts. I cannot conceive that they would act solely on the representation of the Secret Committee.

2648. The Court of Directors see that the Governor-general has performed some act which is displeasing to them, but they cannot tell whether that act has been done of his own accord or under instructions from the Government in England?

In such case I do not think the Court of Directors would ever exercise the power of recall; they certainly ought not to exercise it unless they had all the means before them of forming a proper judgment upon the subject.

2649. Inasmuch as everything that passes with the Secret Committee may not be communicated to them, may not a great deal have passed of which they know nothing?

If, while anything important was uncommunicated and unknown to the Court, they exercised the power, then the only opinion could be that the Court acted wrongly.

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2650. Supposing the Queen's Government in England, and the Governor-general through the Secret Committee, to take a certain political line of conduct which is not approved by the Court of Directors generally, do you think it expedient that the Court should have the power, independently and against the will of the Queen's Government, to recall the Governor-general?

I think, upon principle, I would say not; that is, in cases where the measure in dispute is known only to the Secret Committee, and not to the Court of Directors.

2651. But supposing there was a collision of opinion between the Queen's Government and the Court of Directors?

In that case, the collision being with the Court of Directors, and not merely with the Secret Committee of that Court, the case would be different.

2652. Supposing the information to be complete upon both sides, and that upon a deliberate review of the subject to which the information related, the Court of Directors had one opinion and the Queen's Ministry had another opinion, do you think it proper or not that in such a case the Directors should have the power in question?

I think that in some way the Court ought to have a concurrent authority; that supposing the information to be perfect on all points, such authority ought to rest with the Court of Directors, as it does with Her Majesty's Government.

2653. You think they should have a concurrent power of recall, but not a sole and absolute one?

I mean that either party, independently of the other, should have the power of recall, either the Crown or the Court of Directors; both of them have the power at present.

2654. You recommend the continuance of the power?

I should recommend the continuance of the power as it is at present.

2655. You do not mean that the concurrence of the Crown should be necessary to the exercise of the power of recall by the Court of Directors?

No, I mean that either party should have that authority, independent of the other.

2656. You mean that, as the concurrence of both is necessary to the appointment, so the concurrence of both should be necessary to the continuance?

Certainly.

2657. That the concurrence of both should be necessary to the continuance of that authority which required the concurrence of both for its original creation?

Precisely.

2658. If you deprived the Court of Directors of that power, do you think you would leave to them any real or efficient authority?

I think not; the Court possess very little authority at present; I think, as far as I have seen of the working of the Government of India, that it is desirable that the authority of the Court of Directors should be rather increased than diminished; I think in no point it ought to be diminished.

2659. If you were to deprive them of that power, so as not to make it necessary that there should be a concurrence between them and the Queen's Government with regard to the administration of affairs in India, do you think there would be any advantage in retaining two different bodies in this country for the Government of India?

I think on certain questions there ought to be a control exercised over the Court of Directors, but that it should only be to that extent that may be necessary to prevent the adoption either of principles or measures which may be at variance with those which are adopted by the home Government, and with the general policy of England; but on all the details of the Government of India, such as those of revenue and finance, I should be glad to see the Court of Directors less under control.

2660. Who would be responsible to the public, through Parliament, for the conduct of the Indian Government, with reference to those details of administration which you say ought to be left solely with the Court of Directors?

The Court of Directors.

2661. In what manner are they to be made responsible; would you fine or imprison them?

They should be responsible in the same way that Her Majesty's Government is responsible.

2662. They are elected for a certain period?

The Directors are nominally elected for a certain period; but they are virtually elected for life.

2663. Are they under any responsibility, whatever evil they may do?

They have the responsibility of public opinion.

2664. You are aware, that if anything very wrong is done, the President of the Board of Control would be liable to impeachment?

Of course he would.

2665. Is there such a process, or could there possibly be such a process with reference to the Board of Directors?

There is none at present; but I am not aware why there should not be.

2666. In what way would you propose to carry it out?

I have not considered the details of that question.

2667. Are you of opinion that it would be a misuse of the power of recall, if the Court of Directors were to recall the Governor-general because he had carried out instructions from home in which they did not concur?

I think it would depend upon the nature of the case itself; I should not say, as a general answer to the question, that it would be either a misuse or a proper use of the power; but I think each case must be judged upon its own merits.

2668. Do you consider, that under any circumstances, they have a right to use the power to punish the Governor-general for that which is not the fault of the Governor-general, but the fault, in their eyes, of the home Government?

I can conceive circumstances in which that course might be adopted, without what I should consider a misuse of their authority; because that is the only remedy which the Court of Directors have against the persistence in measures, which, in their opinion, would endanger the security of India.

2669. That is, to recall the innocent instrument who has done an act of which they do not approve?

Yes; because they have no other means of procuring the rectification of what they may deem to be error.

2670. Would that rectify the error, so long as the home Government continued of the same opinion, and took care that the next Governor-general should carry out the same policy?

It would at least show that the Court of Directors were not responsible for it; it would be the only means they had of doing so.

2671. Supposing, that at the present moment, the Queen's Government should be of opinion that it would be advisable to carry on the war with Ava, in such a manner as to annex Pegu to our dominions, and that the Court of Directors should be of opinion, on the contrary, that it would be advisable that the army should advance from Arracan, and that no annexation should take place, but that the Government of Ava should only be coerced so as to bring about terms of peace, how could the Governor-general, subject to being recalled by both parties, please both?

It would be impossible to please both.

2672. Might he not be recalled by either?

He might be recalled by either; but I cannot conceive that that would be a case in which the Court of Directors would exercise the power of recall.

2673. Would he not act according to the instructions sent out to him under official authority?

He would.

2674. If it were known in India, and if known in India, in Ava, that there was a conflict of opinion between the Government and the Court of Directors, with respect to the mode of conducting the war, and that the Court of Directors had

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had the power of recalling the Governor-general, would it not most materially affect the position of the Government of India, and impair its power?

It would, if that knowledge were conveyed to the Burmese Government; but I believe they know but little of these matters; I do not think they are known even in India itself. I believe, to this day, there is not the slightest idea that there is any superintending authority beyond that of the Court of Directors; even in this country the entire subordination of the Court of Directors to the Board of Control was not generally understood till very recently.

2675. But if it were known in India that a certain course of policy was prescribed by the Board of Control to the Governor-general in the conduct of the war with Ava, and it were at the same time perfectly well known that the Court of Directors were hostile to that course of proceeding, would there not then be great weakness superinduced on the Government?

No doubt there would.

2676. Could they negociate with efficiency?

That would depend entirely upon the view which the native authorities took of the probability of the exercise of any power which the Court of Directors might possess of carrying out its views; and that requires so much knowledge of the internal administration of the home Government of this country, that I do not think it probable that any case of the kind supposed could occur.

2677. If it were supposed by any native power that, from whatever cause it might arise, it was probable that the tenure of office by the Governor-general would be extremely short while he was conducting the war, would not that tend materially to impair all his measures, and to prevent a satisfactory settlement?

I should not think that in the present state of Indian opinion it would have much effect of that kind; such would be the opinion of an European public, no doubt, but not of an Indian public.

2678. Do you suppose that the Government of Ava are ignorant of what is divulged to the public by the press of Calcutta?

Probably not.

2679. Does not the press of India represent the press of England, and communicate all there which is known here?

It does, in republishing matters of importance.

2680. But you think that at present it has not produced much impression as to the conflicting authorities of the ruling power in England?

I am satisfied that the constitution of the Indian Government in its connexion with the home authorities is but very little known to the natives of India.

2681. Do you mean to say that the Indian press, which repeatedly gives accounts of the differences that actually exist between the authorities at home, namely, between the Court of Directors and the Board of Control, makes no sort of impression upon the natives, and does not convey any information to them?

Very little indeed beyond the limits of the Presidency towns; in fact, it may be said none, so far as the natives are concerned.

2682. In the remarks which you have just made as to the effect of the native press upon the natives, do you include the native princes, as far as you know what passes in their courts?

I have heard that the native princes have certain portions of the newspapers translated for them; but I doubt whether they understand much about them.

2683. You do not think that the reports of political circumstances passing at home, which are in those native papers, at all affect their conduct in their relations with the Indian Government?

I dare say they do, to a small extent.

2684. Are there not newspapers published in the native languages, and do not those newspapers convey to the natives all the intelligence which is found in the English-Indian as well as in the home newspapers?

I have never been in the habit of reading those papers; I know they are exceedingly

exceedingly scurrilous, and very prone to abuse the Government and all in authority. They publish articles of libellous tendency, at times almost exciting to rebellion; but still no notice is taken of them.

2685. You think they have no manifest effect?
I think very little, for they have very little circulation.

2686. The press you speak of, is the press of Bombay, not of Calcutta?
I speak entirely with reference to Bombay.

2687. You have no personal knowledge of the public press at Calcutta?
No.

2688. Has the native press in Bombay an extensive circulation?
It has very little circulation beyond the mere Presidency town.

2689. Has any attempt ever been made to check the scurrility of the press, or in any way to interfere with it?
I do not remember any instance of it.

2690. You do not remember any prosecution taken either upon public grounds or for private libel?
I do not recollect any.

2691. Is every care taken in the administration of affairs in India, that no hand should be seen but one, that of the Company and the authorities immediately delegated from the Company?
No particular care is taken to encourage this impression, but it certainly exists, except in the Presidency towns, in which Her Majesty's Supreme Courts have independent jurisdiction: as far as regards the public administration in the provinces, the Government of the Company is the only one that is known.

2692. When orders are sent out, although they may be contrary to the opinions of the Secret Committee, are not they sent out entirely in the name of the Secret Committee?
Entirely in their name; no despatches are treated otherwise than as emanating from the Secret Committee, or from the Court of Directors.

2693. Is it your opinion that it would be desirable in any way to have any body that would have the power of expressing the public native opinion upon any laws which were to be promulgated in Bombay?
No, I do not think that would be desirable; I do not think it expedient, in a country governed like India, to encourage any general expression of native opinion in such matters.

2694. You do not think it would be desirable to provoke the expression of public opinion upon any act of the Government?
I think not, considering the mode in which India is now governed, and the extremely conflicting opinions that must necessarily exist among such an immense variety of classes and castes as there are among the natives.

2695. The materials in Bombay itself are very heterogeneous?
Very much so.

2696. Without provoking opinions upon the acts of the Government, might it not be desirable that the Government itself, before it committed those acts, should be in possession of the opinions of trustworthy and well-judging persons among the natives?
It always has an opportunity of gaining those opinions, through the interference of its own officers. There is hardly a local Act of any kind which is passed which is not first reported upon, and the necessity for it discussed with the different officers of the Government; and they have the means of consulting the natives in their immediate neighbourhood.

2697. And practically they do that?
They do; the principal officers of the Government at the Presidency also are in constant communication with natives of the first character, and have the means of learning their opinions upon all matters.

2698. You said that you attribute very little importance at the present time

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to the native newspapers, and you think they have very little influence; but supposing that those persons who are extremely anxious to extend education among the natives should succeed as they desire, and make it very general, and give European knowledge, and with European knowledge, European feelings to the great body of the population; and supposing further that other liberal persons who desire the raising of the natives much more extensively to the enjoyment of high offices in the civil government of the country should also succeed, what effect do you think then the native press would have upon the native mind; how would then the government be carried on?

The native press is altogether a novelty; it has not had time as yet to make its way, or to have any sensible effect upon the masses of the native population; but when their knowledge extends, and when they become more like Europeans, accustomed to read and to be guided by the newspapers, it is difficult to say what effect may be produced.

2699. We now maintain our Government in India, sending thither a number of Englishmen who occupy all the military and all the great civil appointments, and, after a certain number of years, come home with an ample provision for the rest of their days; the natives having no part in the Government. Do you think that, when they became enlightened, the people would bear such a Government as that?

When the natives become sufficiently enlightened, no doubt, if they are as liberal in their views as Europeans, they would not.

2700. Do you think that if, through education and knowledge, and the press, they had the means of co-operation, they could tolerate a government of that description?

I do not think they could or would; but our great safety is the absence of co-operation, and the almost impossibility of co-operation among them.

2701. But if you educate the whole people, and if you likewise raise the natives to high situations and leave to them a free press, you give them the means of co-operation?

I am afraid we are looking farther into futurity than is likely to be of much practical use; as long as they remain what they are, I think there is very little fear of the co-operation of natives of all religions, castes and classes.

2702. Can you give the Committee any information as to the amount of circulation of the native newspapers?

I think it is very trifling.

2703. Is there a native press at each of the Presidencies?

I believe there are several native newspapers in each Presidency.

2704. Are you aware how many there are in the Bombay Presidency?

Probably not above four in Bombay.

2705. Is the circulation of those papers sufficient to support the establishment of each?

It must be.

2706. You do not suppose that it is kept up by other means?

Certainly not.

2707. Do you suppose that the profits of the newspaper are derived from the advertisements, or from the sale of the paper?

I should think more from the sale of the paper; I do not think the advertisements are numerous.

2708. Do Europeans, who have property to dispose of, use the native papers for advertisements?

I think not; if at all, to a small extent only.

2709. Would you raise the natives to higher positions in the Government?

I think the natives are raised, on our side of India, almost to as high a position as I should wish, under their present moral system, to see them.

2710. Would you admit them into the covenanted service?

I doubt the policy of that, exceedingly.

2711. You

2711. You are anxious that the Government of Bombay should be less dependent upon the general government than it now is?
Yes.

2712. At the same time, do not you conceive that it must be always in a certain degree of dependence to the Supreme Government with regard to the politics of India?
Yes.

2713. Have you ever thought of drawing a line as to what the points are upon which it should be independent in, and upon what points it should be obliged to defer to the Government of India?
At present, I believe, there is not a single case which occurs, upon which the Government of India may not, in point of law, give directions to the Government of Bombay; but, in point of fact, it is merely in our political relations, and in matters of finance and legislation, that interference is exercised.

2714. And public works?
As connected with finance; to a certain extent, we carry on public works without any interference whatever.

2715. This being the practical limitation, do you still think that the amount of dependence which exists on the part of the subordinate government, is too great?
I think, in those matters of finance, greater latitude might be allowed to the subordinate government; I think, that considering the facility of communication with England, it might be altogether withdrawn, and that the subordinate government might be left to arrange those matters, as prior to 1833, with the home authorities.

2716. You were formerly in the condition at Bombay of being deficient as to revenue?
We always have been so.

2717. You think that the fact of such deficiency does not make it necessary to consult the Government of Bengal?
No.

2718. Is not the deficiency much less than it used to be?
Yes.

2719. Used it not to be more than a million?
I do not think it was ever so high; I recollect the Bengal Government limiting our drafts upon them to 60 lacs.

2720. Do you think that the checks and control now exercised in the present system of administration in India are sufficient to ensure good government, and to prevent improper practices?
I think they are so, unquestionably.

2721. Can you give the Committee an account of those checks, beginning with the collectors and magistrates, and then going on to the checks upon the Government itself?
The great safeguard is in the system of checks, from beginning to end. To take the magisterial department, the first link in the chain is the village police officer, he is dependent upon and his acts are liable to be overruled by the district police officer, his again by the assistant magistrate, and his again by the magistrate, and so on up to the highest court, that of the Sudder Adawlut. In this manner, and in every line of the service, there is a system of check; and every servant of the Government is moreover liable to be sued in the Company's Courts for any act which he may commit.

2722. What is the check upon the Sudder Adawlut and upon the Government of Bombay itself?
In criminal cases, the check upon the Sudder Adawlut lies in the power which every aggrieved person has of laying his representation before the Government, which is authorised to call for all proceedings, and to pardon, or mitigate sentences; and in civil cases there is the check of an appeal to a

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higher authority at home, to the Privy Council. As regards the Government itself, the only checks upon the government of the subordinate Presidency, are that of the Government of India, which is very seldom exercised, and that of the authorities at home, which is often exercised.

2723. Do you consider those checks sufficient?
I consider them to be ample.

2724. Will you define what is the nature of the check?
The check is merely that every case of any kind whatever that comes before any authority, is matter of record, and the proceedings connected with it may be called for by a superior authority on complaint being made.

2725. Every Act is carried on by correspondence?
Yes; except in the very lowest grades, everything is by correspondence.

2726. Every letter of the correspondence is returned home?
Every letter is sent home, either specially sent or sent in the diary of the proceedings of the Government.

2727. And in the despatches sent to India, remarks are made upon almost every article?
Remarks are made only upon such points as the home authorities may think proper; I think, practically speaking, they are not sufficiently large; they do not embrace every point that is reported. It would be better, in many cases, if they did so; many points are overlooked, and opinions that would be very valuable to the Government are withheld.

2728. Are you of opinion that any advantage might arise from an annual publication of those documents for the use of the service?
Great benefit would arise, no doubt, if valuable reports and despatches on important subjects were published either annually or periodically. This practice is adopted to a certain extent in the North Western Provinces.

2729. It is perfectly within the competency of the Government to make that publication?
It is so.

2730. Do you conceive that the present system, by which seniority has so large an influence in advancement in the civil service, might be improved so as to give more encouragement to distinguished merit?
I think that distinguished merit is at present encouraged; I think it is of essential benefit to the civil service that, *cæteris paribus*, seniority should have its force. The entire abolition of that system would, I think, have an ill effect.

2731. Do you think that there is sufficient advantage given to merit in the selection of distinguished officers?
Yes; I think if the Government were sure of the support of the home authorities, it might disregard seniority more than it does, and thus be enabled to bestow higher rewards on peculiar merit.

2732. Is there any indisposition on the part of the home authorities to support the Government in that respect?
I cannot exactly say that there is; but I have sometimes thought that influences have been at work at home which ought not to be so.

2733. Are not, to a certain extent, the civil servants very much composed of friends and connexions and clients of the governors at home?
To a certain extent they are.

2734. Therefore, to a certain extent, the Government are personally interested in the advancement of those persons?
Yes, and sometimes, perhaps, in defending them when they ought not to be defended.

2735. Is there not a dead weight of incompetency in the civil service?
There is a dead weight of incompetency, but one which could easily be got rid of, by means of which advantage might be taken to a much greater extent than is the case at present. Every civilian who has served 25 years is entitled to

to a pension of 1,000*l.* a-year.; if a servant so entitled be not fully competent for his work, I think the Government ought to require him to take his pension and retire.

2736. Are not they, at present, in the habit of so acting?
I believe they have done so in certain instances, but I think it is a system which ought to be much more largely carried into effect. There is a difficulty in getting rid of men who are inefficient till they are entitled to a pension, but after they are so entitled, there ought to be no difficulty.

2737. Does not the indisposition to leave the country generally arise from being unable to pay up the price of the annuity?
That certainly may act, but I do not know that it does so very generally.

2738. Would you make a regulation prospectively to exclude from high office those who are known to be involved in debt?
I hardly think there is any necessity to have any distinct regulation for that purpose, but I think the Government, in their nominations to appointments, ought to be guided by their knowledge of a man's being involved in debt or otherwise.

2739. Are they not so guided?
I doubt whether they are; I may say, in practice, not.

2740. Would it not be of assistance to the Government if such a rule were laid down, to which they might refer as a justification for passing over an officer?
I think that is a point on which it is desirable that there should not be a distinct and rigid rule laid down, but I think the Government, as it has the power of acting, ought to act without a rule.

2741. Would they be supported by the home authorities in so acting?
I think that would a good deal depend upon the party affected by the act of the Government.

2742. The Board of Control could not interfere in the nomination?
If the Government were to decline to employ a servant because he was in debt, the Board of Control might, through the Court of Directors, direct them to employ him.

2743. They might restore him to his old situation, but they could not put him into a new one?
Yes

2744. Does it, in practice, happen that persons whose mode of life is discreditable in consequence of their being in debt, are, in point of fact, employed in high situations?
No doubt they are. The rule of exclusion has certainly not been carried out in many instances where it might have been.

2745. Is not the rule of seniority still more strictly applied to the military servants?
As far as regards regimental promotion there is no deviation from seniority, but in other matters there is a power of selection throughout the military service.

2746. There is a power of selection for civil and political appointments, but not for divisional and brigade commands?
Yes; all regimental staff appointments, such as adjutants and quartermasters, and all appointments on the general staff, are made by selection.

2747. But not for brigade and divisional commands?
Not for brigade and divisional commands; there seniority is the rule, and selection is the exception.

The Witness is directed to withdraw.

J. M'Pherson M'Leod, Esq.

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JOHN M'PHERSON M'LEOD, Esquire, is called in, and examined as follows:

2748. WHAT offices have you held in India?

I belonged to the Madras Presidency. My first office was that of assistant to the Secretary to the Government in the several Civil Departments. I was afterwards a Secretary to the Government for several years at Madras.

2749. Will you state the periods of your service?

From the beginning of the year 1814 till the beginning of 1820, I was Assistant Secretary to the Government in the several Civil Departments; besides filling that office, I was from 1816 to 1820 a member, and also Secretary of a Committee which was appointed by the Madras Government under directions from the Governor-general in Council, for the purpose of revising, in concert with similar Committees at Calcutta and Bombay, the laws respecting Customs duties throughout India; in which situation I originated the first recommendation to abolish the internal transit duties; a measure which, after a long lapse of time, has been carried into effect in all the Presidencies. I came home in the beginning of 1820, and returned in 1823, and immediately on my return I was appointed a Secretary to the Government. Sir Thomas Munro was then Governor. I was Secretary to the Government during the whole of his government after my arrival, and for nearly two years more.

2750. As such you were in constant habits of personal and official communication with Sir Thomas Munro?

I was.

2751. Did you afterwads fill offices at Calcutta?

Yes; but before going to Calcutta I was, for a period of about three years and a half, beginning in January 1829, a member of the Board of Revenue at Madras; and during the same time, as well as when I was Secretary to Government, I was also a member of the Board of Public Instruction, and of the Committee for superintending the Mint, and held successively the offices of Tamil and of Persian translator to Government. I was next employed in Mysore, the territories having been resumed from the Rajah. I was one of two gentlemen appointed by the Governor-general, Lord William Bentinck, to conduct the Government of Mysore in the place of the Rajah; I was the junior; there were two Commissioners, and their functions were described by Lord William Bentinck, in one of his minutes relating to the appointment of the commission, by saying that they were to exercise all the powers of a Regency.

2752. At what period was that?

That was from the middle of 1832 to the middle of 1834. I was there for two years, and during a short part of that time I was in sole charge. After the termination of my service in Mysore, and before I went to Bengal, I was for some time on the Neilgherry Hills with the Governor-general, by his desire; and I was from thence deputed by him to Hyderabad, as the umpire chosen by him to settle certain disputes which had for many years been a source of much trouble and annoyance to our Indian Government. Having performed that duty, I proceeded to Calcutta, and served there as a member of the Law Commission.

2753. For how many years?

For three years.

2754. Those were the first three years of the establishment of the Law Commission?

They were.

2755. What was the principal subject which came under your consideration during the time you were acting as a member of the Law Commission?

The principal business of the Law Commission, during the time I was a member of it, was to frame a penal code.

2756. In framing that penal code, did the Law Commissioners proceed unassisted, or had they recourse to the assistance of any other advice or authority,

rity, and more especially of learned men conversant with the Hindoo and Mahometan laws?

They did not, in a formal manner, resort to any other advice, and they did not associate with themselves any other party, but upon particular parts of the subject that was under their consideration, they sought information and advice from all quarters from which they thought it likely they could obtain any which would be useful.

2757. Had you any difficulty in procuring that advice and information?

I cannot say that we had any difficulty; the question, I understand, refers to advice or information on local points.

2758. In discharging the duties you had to discharge, of bringing into one code the various principles of law which you considered it expedient to re-enact and make perpetual, you had no difficulty in procuring information?

We felt that it was very difficult work. I cannot say that we had not difficulties.

2759. But you had no difficulty in procuring information?

We had no difficultty in procuring all the information that we wished to procure.

2760. How long were you engaged upon that?

The whole time I was a Law Commissioner was about three years, but we were not the whole of that time engaged in that work. It was some time before we commenced, and I remained in the Commission some time after that work was finished. About two years was the time that was taken for the preparation of the code.

2761. Were you impressed, in consequence of the investigations which you must previously have made, with the necessity of framing and enacting such a code?

Yes, I was. The question, of what part of the law the Commissioners should begin with, was determined by the Government; it was not left to the Commissioners. The Government directed us in the first instance to frame a criminal code. I certainly was fully sensible of the need that there was for such a code, and events have since occurred which have shown that necessity in a very strong light.

2762. Will you have the goodness to refer, as an illustration, to any such events as in your judgment confirmed your antecedent views upon this subject, as to the necessity of having some more certain code of laws enacted?

It has since been proposed to bring European subjects of Her Majesty, who have hitherto not been subject to the courts in the provinces, under the jurisdiction of those courts; and the great objection that has been made to that, has been this, that it would be bringing them under the jurisdiction of courts which did not administer any system of law to which it was fit to subject Christians and British subjects.

2763. What system of law would they be subject to in the Mofussil?

The criminal law, which is administered in the Mofussil throughout the greater part of India; viz., the territories of Bengal and Madras, is the Mahometan law, modified by Regulations passed by the respective Governments of Bengal and Madras.

2764. Have any cases occurred within your knowledge to which you can refer the Committee, in which the inconvenience and unseemliness of subjecting Europeans and Christians to that law are exhibited?

I remember well, when I was Secretary at Madras, the case of a European soldier in one of our regiments, who was not a British-born subject, who committed murder; he killed a native. The question then arose how this man was to be tried; the Advocate-general at Madras gave it as his opinion, that he could only be tried by the Mofussil Court. Not being a British-born subject, though he was a soldier in the British army, he could not be tried for this offence by the Supreme Court, and at that time he could not be tried for that offence by Court-martial. I do not suppose he could even now. That man, a European and a Christian, was tried in the Mofussil Court by the Mahometan law, as modified by our Regulations, and was sentenced to perpetual imprison-

ment. Now, I remember that the impression made on my own mind was, that that was a very unseemly thing, and that the state of the law under which such a case could occur was one which it would be very much to our credit to see remedied.

2765. What was the most objectionable point that you saw in that transaction?

The objection is apparent; it is offensive to the feelings of a Christian community that a Christian should be tried by the Mahometan law, a law which is derived from the Koran. I do not mean to say that there would be any great injustice or oppression done under it; but it is to be considered that this is done under a European and Christian Government. Under a European and Christian Government a European is tried by a Court which administers the Mahometan law, and in which judgment is given upon what they call a futwah, a sort of verdict which is returned by a Mahometan law officer. It is to be borne in mind, that the Mahometan law is part of the Mahometan religion, or at least is closely connected with it. I do not say that practical injustice or oppression would be done in the case; I do not say that the decision of the court might not have been perfectly right, but there is something in this state of things which is extremely offensive to the feelings of Europeans and Christians, generally speaking.

2766. Would it affect their religious feelings, if they were judged by a penal code, founded upon the moral part and not the religious part of the religious volume of the Mahometans?

The fact is, that the Christians in India, the Christians, I mean, of European birth or descent, have raised a great clamour against being brought under the Mofussul Courts in criminal matters, on the ground of its being improper to bring them under laws founded on the religious volume of the Mahometans.

2767. Has not the Black Act, which subjects Christians in the Mofussil to the operation of the Mahometan law in criminal cases, created the greatest resistance?

It is well known that it has done so; an Act which was not long since proposed to bring Europeans under the criminal jurisdiction of the Mofussil Court, and I have understood (I am speaking not of my own knowledge, but from what I have understood, from sources which are open to everybody), that that Act was not enacted, but that the matter was suspended by the Governor-general, expressly on the ground that it would be unadvisable to enact it before a code of criminal law had been enacted, which would not be open to such objections as were made to the existing law.

2768. The objection is felt not only to the law, but to the persons who administer it?

Yes; I have understood so. Two objections were made, and those objections were perfectly distinct the one from the other; the one objection was entertained by the Governor-general, and acted upon; the other evidently was not, for he adhered to his intention of subjecting Europeans to the Mofussil Courts.

2769. Would the establishment of a general code remove that unwillingness on the part of Europeans to be tried by native courts?

It would remove that particular ground of objection; they could not say that they were subjected to the Mahometan laws, nor could they say that they were tried by a different law in the Company's Courts from that by which they would be tried in the Queen's Courts, for it is intended that the new law shall be the law of India, which shall govern the proceedings of the Supreme Courts of Her Majesty, as well as the Company's Courts.

2770. Would they still be dissatisfied with being subject to native officers administering that code?

I dare say some dissatisfaction would still be felt; it is difficult to make a general arrangement which will not give dissatisfaction in some quarters; but it does not appear to me that the dissatisfaction would be such as it would be advisable to yield to.

2771. You think it would not be offensive to the feelings of the Mahometan population if they were subjected to that code?

I am

I am satisfied that on their part there would be no objection of any importance; you might possibly have a Mahometan here and there who objected, but I doubt whether there is in India any considerable number of Mahometans of any respectability who would consider the change objectionable. The law which is now administered, although it was originally the Mahometan law, is so modified by our Regulations as to be little entitled to be regarded by Mahometans with any peculiar respect on religious grounds, for it was not a proceeding calculated to gratify their religious feelings to take their law and then modify it by our Regulations; we have already done enough to take away all their respect for the law on the ground of religion; and if they found that, practically, the new law was better than the old one, they would be glad to have the change.

2772. If the Mahometans regard the law as now administered as so little connected with their religion that they feel no reluctance to part with it, how is it that the Christian regards the law as so connected with the Mahometan religion, that he does not like to be subjected to it?

The Christian and the Mahometan are placed in very different positions; the Mahometan no longer respects the law as being derived from his religion, because it has been so much altered by us; but the Christian still despises the law, and detests the thought of being subjected to it, because, however it may have been modified, it is derived from the Mahometan religion. The Christian and the Mahometan appear to be placed in positions, with regard to the law, so distinct from each other, that no inference with regard to the feelings of the one can be drawn from the feelings of the other.

2773. Independently of any question connected with religious feelings with respect to the Mahometan law, if you were to-morrow to settle in India as a private individual, should you feel more confidence in respect to your rights of property or our civil rights, if, living in the Mofussil, you lived under the British code of laws, than you would feel if you were subjected to the Mahometan law?

Yes. I can hardly conceive that any intelligent British gentlemen would frame any code of laws that would not be somewhat better than the Mahometan law. I would beg to be allowed to explain my ideas on the subject on which I have been speaking. The question with regard to the existence of those feelings which I have alluded to on the part of the European Christian, appears to me to be totally distinct from the question as to the reasonableness of those feelings; I may be unable to account satisfactorily for those feelings, but that they do exist is a fact, and a fact that may be ascertained by inquiry; that I have no doubt of whatever; I believe it in the same way as I believe anything else of public notoriety. The question what the feelings of Mahometans are on the subject, is another question of fact. We have made a very considerable experiment in the Presidency of Bombay, which seems to throw some light on this question; the Mahometan law has been set aside entirely by our Regulations at that Presidency. Before we began to frame a code as Law Commissioners in India, all other criminal law than what was made by the Government had been entirely annulled in Bombay.

2774. We have been told that the Mahometan law never existed there under the previous Governments?

I believe that it did not, as the law of the land; but whatever law existed there was abolished. In that country, however, there was, I believe, nearly as great a proportion of Mahometans as in the other Presidencies. I do not know what was the exact proportion, but as the Bombay Presidency lies near countries where the population is entirely Mahometan, it is not likely that the proportion in it should be much less. Yet the Mahometans there have submitted to the administration of the law which has taken place under our rule, though there has been no Mahometan law in it at all; there is not the least complaint on the subject; and I do not believe that the native population consider at all whence the law is derived, provided it is only found to work well.

2775. If the objection to which you have alluded on the part of the Christian is to the supposed religious origin of the Mahometan law, inasmuch as the Christian civil code makes no such pretension of being connected with the religion

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of the Christian, could there be any analogous objection felt on the part of the Mahometan to adopting our law, to that you have described as existing on the part of the Christian to adopting the Mahometan law?

It appears to me that there could not be any analogous objection.

2776. From your knowledge of India, do you think that the main object that would be considered by the inhabitants, Hindoo and Mahometan, would be rather the practical result and the beneficial consequences of the law that was introduced, than the question of its origin?

I think it would.

2777. You state that the Mahometan law is part of the religion of the Mahometans?

Originally it was, but the Mahometan law, as modified by our Regulations in Bengal and Madras, is very different from the original Mahometan law.

2778. Did not the Committee understand you to say, that the Mahometan law was part of the religion of the Mahometans?

Yes.

2779. Would a Mahometan willingly consent to that abrogation of a part of his religion?

So far as concerns the feelings of the Mahometan, that part of his religion has, by our Regulations, been already abrogated, if our disuse of it can be called abrogation, and he no longer looks upon the law, as now administered by us, with religious veneration, if he ever did so look on it as administered by us; but although that is the case with regard to the feelings of the Mahometan, still the European Christian looks upon the same law as a law derived from the Mahometan religion, retains all his aversion to it in full force, and objects to being brought under it.

2780. You are speaking not merely of Madras, but of India generally?

Yes.

2781. You state that at Bombay particular Regulations have abrogated the code of Mahometan laws?

Perhaps I was not quite correct in stating that the Regulations set aside the Mahometan law, but they swept away all the law which existed before, and substituted in its place, as far as it substituted anything, an entirely new law.

2782. You mean Mr. Elphinstone's Code?

Yes.

2783. That has taken place more in Bombay than in other parts of India?

In other parts of India the law in force continues to be law mainly derived from the Mahometan law, but greatly modified by the Regulations which have been passed for the Bengal territory by the Bengal Government, and for the Madras territory by the Madras Government.

2784. Is the state of the law satisfactory in Bombay?

Most unsatisfactory.

2785. A reform of the Bombay Criminal Code would have been effected by the penal code which the Law Commission recommended, had it passed into law?

Of course it would; it would have had operation there as elsewhere.

2786. When that penal code was first divulged in India, was any objection taken to it on the ground of its interference with Mahometan institutions?

I never heard of any such objection.

2787. Should you be content to live under the new code, administered in the Mofussil by native judges?

I should be very sorry to live under any code whatever administered by native judges, unless they were superintended by Europeans.

2788. Would you have been better satisfied to live in the Mofussil under the penal code if it had been carried into effect, than under the system of law which now prevails there?

That is, supposing I was not in the Company's service, I think I should.

2789. Should

2789. Should you not object to live under the present law in the Mofussil?
I should feel an objection to it, and wish that we had a better law; I do not mean to say that I would actually object to it. I think that Europeans have ground for objecting to the present law; they would not, perhaps, suffer any great hardship or oppression under it, but they would, at least, have a plausible ground for objection, and it would not be an advisable course to subject them to it.

2790. If it has been stated as an objection to the law that the law is *vagum atque incognitum*, would that apply equally to the code if it had been carried into effect as to the present confused state of the law in the Mofussil?
It certainly would not.

2791. Were there any other functions which, as Law Commissioners, you performed, independently of the preparation of the penal code?
Yes, we reported upon a great many subjects that were referred to us.

2792. Did they bear upon the subjects of legislation which the Supreme Government had before them?
They were all in some degree connected with legislation. I remember one of them which gave us a good deal of trouble, and about which I took a good deal of trouble myself, and concerning which I had a doubt whether it was one that properly fell within the scope of the duties of the Law Commissioners as laid down by Parliament: a reference which involved the whole subject of the stamp revenue of Bengal was made to the Law Commission on one occasion.

2793. Had you occasion to make a report upon that subject?
I remember the preparation of a report upon it; what became of it, I do not know.

2794. Are not the revenue laws very much mixed up in India with the other laws?
No doubt they are, in some respects, mixed up with other laws.

2795. Would it be possible to make a new code of laws without interfering very materially with all the revenue system?
Yes, I think it would be possible to make a new code of laws without interfering at all with the revenue system, and I think the proper course to take, in framing a new code of laws, is one that will not interfere with the revenue system.

2796. The penal code had no direct influence upon the revenue?
No.

2797. You gave the stamp revenue as a specimen of the description of functions you were called upon to perform; can you give any other instance in relation to military matters?
I remember that one of the very last things done by the Law Commission before I left India, was revising a draft of Regulations, or Articles of War, I do not know which to call them, which were sent up to the Government by the military authorities; they had received the sanction and approbation of the Commander-in-chief, and were referred by the Government to the Law Commissioners for their consideration and report. We considered them, and reported upon them.

2798. Did you suggest any amendments?
We suggested several amendments.

2799. Were those acted upon by the Government?
They were; at least I remember one that I have since learned was acted upon by the Government; it was proposed in the law, as it came to us, to give the Commander-in-chief power to deprive a native commissioned officer of his commission; in short, to dismiss him, without the sentence of a court martial, of his own authority. We thought that very objectionable, and stated our reasons for it. The native officers hold their commissions from the Governor-general in Council; their commissions are signed by the Governor-general in Council, and it was our opinion that no other authority than the Governor-general in Council should have the power of depriving them of their commissions excepting by sentence of Court Martial; that was the view taken by

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the Law Commissioners, and it was concurred in by the Governor-general in Council.

2800. In that case the subject of the military code was referred to you; you made a report upon it, and the report was adopted by the Government in India, and made law?

I cannot say whether the military code, just as revised by us, was made law, but the amendment which I have described, and also I believe other amendments suggested by us, were adopted.

2801. Do the Committee understand you to say that the native army in India is governed by a different military law from the Queen's army?

The native army is governed by laws passed in India; the Queen's troops are governed by laws passed by Parliament.

2802. Do the laws passed by the Government in India differ materially from the law to which the Queen's troops are subject?

No doubt they do.

2803. Are the European troops in the Company's service under the same military law as the native regiments?

I cannot answer that question with confidence, but I believe they are subject to the Mutiny Act.

2804. Then the Company's troops are not all under the same military discipline?

No.

2805. Referring to the section of the last Charter Act, relating to the Law Commission, the object of that Law Commission is stated in the recital of this specific section, and is as follows: "And whereas it is expedient that, subject to such special arrangements as local circumstances may require, a general system of judicial establishments and police, to which all persons whatsoever, as well Europeans as natives, may be subject, should be established n the said territories at an early period, and that such laws as may be applicable in common to all classes of the inhabitants of the said territories, due regard being had to the rights, feelings and peculiar usages of the people, should be enacted, and that all laws, and customs having the force of law within the same territories, should be ascertained and consolidated, and as occasion may require, amended." Do you consider that those purposes are continuing purposes, and leading to the necessity or expediency of a permanently continuing Law Commission?

It appears to me that they are so.

2806. Practically speaking, with a view to the good government of India and the enactment of such laws as it may be expedient to establish, do you consider that the continuance of the Law Commission is useful to the inhabitants of India?

I consider that it might be useful.

2807. When you say it might be useful, do you contemplate a different state of usage with respect to that Commission from what has hitherto prevailed?

I certainly do.

2808. In what respect do you think a different state of usage is required, in order to give efficiency and fully to develop the objects of the Law Commission, as contemplated in the last Charter Act?

I am not quite sure whether what I am about to state bears strictly upon the question; and it may appear to be somewhat presumptuous for me to say it, but I do not know how I can meet the object in any way better than by stating, with some latitude, my ideas upon the subject of the local legislature of India. It appears to me that the Legislative Council of India, as at present constituted, is a very defective one.

2809. That does bear strictly upon the question; will you be good enough to state in what respect you consider the present Legislative Council defective?

If we consider the legislature of India to be the Governor-general in Council, as at present, without the Law Commission, it appears to me that it is an inadequate legislature for that empire.

2810. As

2810. As at present the Law Commission is contemplated to give assistance to the Government of India in some respect or another, has it within your experience afforded the aid which was contemplated from it; and if it has not done so, to what would you attribute its failure in that respect?

It certainly has not fully afforded the advantages that were contemplated from it; but what the cause of that may be is a question upon which I ought to speak with great deference and diffidence; my experience does not enable me to speak upon that question beyond the short period when I was myself a member of the Law Commission. I am not aware that the Law Commission failed to do during that period, what might reasonably be expected from it; and yet its works have not borne much practical fruit in improving the good government of India; but what has caused that failure is another question; it does not appear to me that it is the fault of the Law Commission.

2811. If not the fault of the Law Commission, to what other cause would you attribute it?

If I were to attempt to account for it, I am afraid I should have to give a long answer, in order to state my sentiments upon the subject in such a way that they could be understood.

2812. The Committee will be glad to hear your sentiments?

The Law Commission began its labours under unfavourable circumstances; it was perfectly well known that a portion of the home authorities were decidedly unfavourable to it; and it has been supposed, and I believe correctly, that that unfavourable sentiment was not confined to this country. It may be questioned whether the higher authorities have always acted cordially with the Law Commission in the endeavour to produce for the public interest all the benefit that might be obtained from the labours of the Commissioners; but at all events, whatever the cause may be, the principal Reports of the Law Commission have not been acted upon. To revert to the code, it was referred by the Government to a great many authorities in India, and reports on it, containing an immense mass of comments, were in consequence received; those reports were afterwards referred to the Law Commission, which then consisted of new members; there was not in it a single member who had been present at the framing of the code as it came forth from the Commission. These members considered the code, together with the voluminous reports which had been made upon it, and had been referred to them. They then made a report, which upon the whole was very favourable to the code; they recommended, that with some not very important alterations it should be enacted. The code went through that ordeal. I think I may say safely, that I know of no work whatever which ever was subjected to such severe scrutiny and criticism as the Indian Penal Code, and I do not see that the result has been to detect any great errors in it; however, this report was made upon it, and was sent home. As I am giving a sort of history of the Code, perhaps I should state one matter in which I myself was concerned. The report was in two parts; having received a copy of the first part of it, I carefully examined it and compared it with the code, and it appeared to me that on those points on which the writers of the report proposed alterations in the code, they had fallen into some errors; I wrote notes upon the report, with the view of giving explanation. I got them printed, and sent them in to the Court of Directors, and they were sent out to the Government of India; after this the code came again under the revision of the Council of India, with a fourth member, who took up a view very unfavourable to it.

2813. Who was that?

The late Mr. Bethune. Then a new code, or a re-cast of the code, was framed, and was sent home. I have seen that too; now it has gone back to India again. I have now given, in a few words, a brief and very imperfect history, no doubt, of the code. Since it was put forth originally by the Law Commission, it has been undergoing those different references, reviews, transmissions and re-transmissions, for the long course of years that has since passed. It appears to me remarkable, that by this time the proper authority, whatever that authority may be, should not have made up their mind as to what should be finally done in the matter, and either have set the code aside altogether, or adopted it, or made the requisite alterations in it and passed it.

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2814. You state that Mr. Bethune, the late fourth member of Council, in revising the code, made considerable changes?

I ought not to say that Mr. Bethune, the fourth member of Council, did that, for I am speaking on a matter which is not within my own knowledge; but I know that the revised code was prepared while Mr. Bethune was alive and in India, and I have reason to believe that it was done mainly by him.

2815. Whatever were the amendments made, did they amount to an alteration of the principles of the code and its general enactments, or were the alterations in matters of form, and more especially the omission of the illustrations?

There were alterations of substance, but the alterations were chiefly those of form and diction; they threw out the illustrations altogether.

2816. Will you explain to the Committee what the illustrations were, and with what view they were introduced?

They are supposed cases authoritatively decided; they were introduced with the view of making the law more certain and more precise than it was thought possible to make it without them, and also more easy to be understood.

2817. Do you think that the principle adopted of giving illustrations was well calculated to make the law intelligible, both to those who were to administer it in India and to those who were to be bound by its provisions?

In my humble opinion the illustrations were well calculated to effect that object.

2818. When the code was last sent back to India, was it not a matter in contemplation, and was not the opinion entertained by high authorities, that it was then in a condition to be considered by the authorities in India, and that an ultimate decision ought to be come to leading to its rejection or leading to its adoption?

I believe that was the opinion of high authorities.

2819. Considering the opinion you have stated as to the continuing duties of the Law Commission, and viewing the provisions of the Act of Parliament itself, which are in these terms, "that the said Governor-general of India in Council shall, as soon as conveniently may be after the passing of this Act, issue a Commission, and from time to time Commissions, to such persons" as shall be recommended for the purpose; do you consider it consistent with the purport and object of that Act of Parliament, that the vacancies in that Commission should not have been filled up, but that the Commission should be allowed to die a natural death?

I do not consider that that course of proceeding was consistent with the provisions of the Act of Parliament.

2820. When you were connected with the Law Commission, I believe the head of that Commission was the fourth member of Council?

He was.

2821. Do you consider that the necessary connexion between the Government of India and the Law Commission, by appointing the fourth member of Council a member of the Law Commission, is expedient, or the reverse, viewing the question in general terms, and not in relation to any particular instance?

I have not a very confident opinion upon that subject; but on the whole, I am inclined to think, that other things remaining as they are, and the Law Commission being renewed and maintained, there would be more advantage than disadvantage in making the fourth member of Council the President of the Law Commission; but whether the best arrangement for the conduct of the legislative business of India is the present one, is quite another question.

2822. Has it occurred to you, as a matter of consideration, whether, with a view to effective and wise legislation for India, the present system would be capable of improvement?

The present system appears to me so defective and objectionable, that I cannot, for a moment, doubt its capability of improvement; but what measures ought to be taken for its improvement is a very difficult question, and one upon which

which I cannot say that I entertain any fixed views; it has been no part of my business to consider it fully; ideas upon it have occurred to me which, if wished, I will state; but I would wish it to be understood, that I state them with great diffidence, and merely as suggesting matter for consideration.

2823. Will you state first, in what respects you consider the existing system of legislation in India to be defective?

It appears to me, that the Governor-general, with four members of Council, however highly qualified those individuals may be, is not altogether a competent legislature for the great empire which we have in India. It seems to me very desirable that in the Legislative Government of India there should be one or more persons having local knowledge and experience of the minor Presidencies; that is entirely wanting in the Legislative Government as at present constituted; it appears to me that this is one considerable and manifest defect.

2824. Reserving for further consideration the question of parties from the minor Presidencies being connected with the Legislative Council, do you consider that the Governor-general and the Council have sufficient leisure and previous knowledge to conduct, in addition to their executive and administrative functions, the whole duties of legislation for the Indian empire?

I am of opinion that they have not; I am also inclined to think that the failure which has unquestionably taken-place in the realization of the expectations that were entertained from the labours of the Law Commission, has been in a great degree owing to that circumstance.

2825. You have already stated, that without committing yourself to a full and definite scheme, your attention has been turned and your opinion has been formed, with respect to some mode suggested, rather than recommended, for remedying those inconveniences; will you state what they would be?

It appears to me, that it is deserving of consideration, whether, if the Law Commission is to be reserved and maintained, it would not be advisable to make the members of the Law Commission members of the Legislative Council of India, and so combine the Law Commission with the Council of India in considering and disposing of questions regarding the enactment of laws; it appears to me, that although it might not be the best of all possible legislatures, yet it would be a better one than the present; but I merely suggest this, with the utmost diffidence, as a matter deserving of consideration.

2826. Is the object which you seek to attain by such suggestion, to give, through the Law Commission, more legal knowledge to the Council, and to give, through the Council to the Law Commission, more authority in realizing its recommendations?

I think that it would be attended with great advantage in that way, and I think it would be attended with this advantage, that when any recommendations that the Law Commission made, underwent discussion at this Council, difficulties might be got over and objections removed, by personal explanation. There is another point which has more influence on my mind, and therefore I ought to state it. But for very strong objections, which I think would arise out of other considerations, entirely distinct from those which we are now adverting to, what I would have suggested for consideration, instead of the suggestion I have offered, would be, that a member from each of the minor Presidencies should be added to the existing Council of India. That the Council of India, I mean, should have in it, in addition to its members, as it is at present constituted, a Madras civil servant and a Bombay civil servant. I think that this would improve the Council as a Legislative Council; but I shrink from suggesting it, because I think it might lead to another change, which would produce evils infinitely greater than those which are at present experienced from the defectiveness of the existing legislation in India.

2827. The former suggestion would involve a separation between the Legislative and the Executive Councils; the latter suggestion would not involve that?

There is something of that sort of separation already caused by the limitation of the functions of the fourth member of Council. They are not exactly one and the same body, the Legislative and Executive Councils; but no doubt they would differ more if the former suggestion were carried into effect, than they

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differ now. But the other measure, I conceive, would be objectionable, because, I apprehend, that it would lead to a lowering of the authority of the Presidency Governments, and I think it is of the utmost importance to maintain the authority of those Governments, and to avoid doing anything that would lower or lessen it, especially the authority of the Government of Madras, with which I am, myself, best acquainted.

2828. In what respect do you think that the application of the principle of centralized government, in regard to legislation, would lower the authority of the Presidential Governments of Madras and Bombay, and more especially Madras, of which you have local experience?

It is not by the application of the principle of centralized government to legislation, but by the application of that principle to executive administration that I fear that the authority of the Governments of Madras and Bombay would be lowered. I think that the suggested measure to which the question refers, would lessen the difficulty which at present stands in the way of the assumption by the Supreme Government of the direction of the internal administration of the affairs of the Madras Presidency; and although, if they assumed the exercise of that power, they might perform the work a little better from having a Madras member to assist in it, yet I think that even with that assistance the change would be a change very much for the worse,—a change attended with great peril and productive of great disadvantages, and unattended with any compensating advantage whatever. It seems to me that it would be advisable to enlarge the Legislative Council, and have representatives of the minor Presidencies in it, without enlarging the Executive Council, or in any way altering its present constitution.

2829. The member from Madras or Bombay would, necessarily, be always in a minority upon every question in the Supreme Council?

Either that, or if he carried the Council with him, he might make himself the real Governor of Madras or Bombay, and make the person holding the office of Governor of Madras or Bombay feel himself a cipher. I understand the question to relate to the Executive Council.

2830. In cases in which there was any local prejudice, or in which interests clashed, the representative of the Madras Presidency would be always necessarily in a minority, because he would be the only one of the Council representing that Presidency?

He would be so. This, of course, is no objection to having a Madras member in the Supreme Council, if you are at any rate to have a centralized government, if the Government of India were really and truly, not only to superintend the affairs of the Presidency of Madras, so far as to give directions in all matters that concern the general interests of the Indian empire; but if it were to take upon itself the actual direction of the internal administration of the Presidency of Madras, then the Executive Government of Madras would be as it were merged in that of the Indian empire, and it would be merely a necessary consequence that the representative from Madras would be in a minority, and have his opinion overruled when he differed from the other members; but the fact which the question relates to, affords a strong argument against centralizing the administration of the several Presidencies.

2831. Must not the present law be altered to allow the Governor-general in Council to interfere more than he does now in the government of Bombay and Madras?

No; I conceive that the Governor-general might in the exercise of his lawful powers, interfere a great deal more than he actually does with those Presidencies.

2832. Does he ever interfere, except in answer to appeals from those Governments on legislation, or for permission to expend money?

I should imagine that he rarely does; I believe the power of interference has been exercised sparingly; but I have a strong impression that the rule which has taken away from the Madras Government the power of spending money without sanction from Bengal, is operating injuriously to the public service.

2833. With respect to the penal code, do you consider that for the purposes of

of making known the laws to those who administer them, and to give a qualified knowledge of the laws themselves to those who are subjected to them, that qualified knowledge being all that even in British civilization you expect to communicate to the whole mass of the people, it will be possible in India to effect a translation of the penal code, so as to diffuse a knowledge of it amongst the Asiatics generally?

I have not the smallest doubt of it.

2834. I believe one of the important functions you performed was connected with the translation?

Having, as I have stated, held successively the offices of Tamil and Persian translator at Madras, in conjunction with the higher posts I have held, I have had considerable experience in making translations.

2835. As such, was it part of your functions to translate such laws as it was necessary and expedient to promulgate for the information of the people?

It was.

2836. Did you find any practical difficulty in effecting those translations?

It is not a very easy task; it requires to be done with care; but it is a task that must be performed, and I see no more difficulty in translating the code than in translating other laws.

2837. As the code is merely a combination of laws, if you have the power of diffusing the knowledge of a particular law, must you not have a similar power of diffusing the knowledge of a combination of laws?

Certainly; the objection which has been made to a code on account of the difficulty of the translation either amounts to this, that we ought to make no laws for India at all, or it must be grounded on the supposition that the code is less capable of being translated than other laws. I am persuaded that the code is not less capable of being translated than other laws.

2838. Are you aware of a reference which was made on this subject with respect to the translation of the code to Sir Henry Elliott?

Yes; I am.

2839. Was Sir Henry Elliott, a servant of the Company, of great authority upon the subject, so as to entitle his opinion to weight before this Committee?

He certainly was.

2840. Have you read the Report which he made?

Yes, I have.

2841. And you concur in the opinions expressed in that Report?

I concur in them generally.

2842. You have no doubt with respect to the power of effecting such a translation?

No doubt whatever; I think that the examples which are given in that Report of passages in the code cited in support of their argument by writers who object to it as unfit to be translated, are very well calculated to show the shallowness of the objection.

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned till Monday next, One o'clock.

Die Lunæ, 21° Junii 1852.

THE LORD PRIVY SEAL in the Chair.

JOHN M'PHERSON M'LEOD, Esquire, is called in, and further examined as follows:

2843. IN your last answer, in your previous examination, you stated that the interference of Bengal with the Presidencies of Madras acted injuriously upon the public service?

I think it has a tendency to prevent the Madras Government from bringing forward measures of reform, attended with expense which, but for the necessity of submitting the matter previously to the Supreme Government, which is really formed chiefly of men connected with the Bengal Presidency, would be taken in Madras with benefit to the public interests; if there is any new expense to be incurred, even though, on the whole, there would be a saving, I conceive that, under that rule, the measure must be referred to Bengal.

2844. Do you apprehend that there is any unfair disposition to sanction expenditure in Bengal which does not exist in sanctioning expenditure in Madras and Bombay?

I would not say that there is any unfair disposition of that sort; but I have not the least hesitation in saying that it is the general belief of the authorities in Madras that they are better qualified to judge of the measures necessary or expedient for the Madras Presidency than the authorities in Bengal, and I think they are quite right in being of that opinion; I think, too, that the knowledge on their part that all measures that are attended with any increase of expense, must be referred to the Bengal authorities to get their sanction, has a tendency to impede the beneficial action of the Madras Government.

2845. Has it not also a tendency to promote greater economy in the expenditure?

I do not think that it has, upon the whole; I do not think that, under the operation of that rule, the expenditure of the Madras Government, on the whole, is likely to be more economical than it otherwise would be, or that the interests of the public are likely to be benefited even in an economical point of view.

2846. Then you believe that it is more the fear of change which prevents the Madras authorities from effecting those reforms than that want of greater means to promote the interests of the country?

I do not see that it is the fear of change that operates so as to bring about that result.

2847. Should you have less objection to that power if there were a representative in the Madras Council?

Not in the least degree: I understand that what the question supposes is, a Madras member in the Council of India.

2848. It is not the want of knowledge which you think is so injurious with reference to the central Government, but the want of independence of action in the Madras Government?

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I think injurious consequences likely to arise from both causes; even if there were a Madras civil servant in the Supreme Council, besides that his opinion would be likely to be overruled on any matter in regard to which there was any collision, or imagined collision, of interests between the two Presidencies, I think that the Supreme Council would still be ill fitted, in respect of knowledge, to interfere much with the administration of the internal affairs of the Madras territories. But what has most weight in my mind as an objection to any increase of interference on the part of the Supreme Government in Madras affairs is, that it would lower the authority and impede the action of the local Government, very much to the injury, in my humble opinion, of the public interests.

2849. It would tend to supersede the local Government?

Yes; it would damp its energies, and lower it in the estimation of its subjects, and, on the whole, would have an injurious effect.

2850. Do not you consider that all minute interference in the details of administration with the subordinate Presidencies, on the part of the Supreme Government, necessarily tends to lower those Governments in public estimation?

I have no doubt whatever but that must be the effect.

2851. Do you think that a Government that is unable to sanction the smallest expenditure on public works, or to grant the smallest pecuniary reward to any servant under it, must necessarily stand lower in public estimation than a Government which has the power of incurring such expenditure?

I do think so.

2852. Will you have the goodness to state under what limitations expenditure is sanctioned by the Supreme Government?

I do not know; it is a long time since I have been in India. I could speak of what the Supreme Government does merely from general information on the subject; but I know that it is the case, because the Act of Parliament makes it so, that the Supreme Government has power to restrain the inferior Governments from spending money without its sanction.

2853. Can you state whether the accounts of the Presidency of Madras are sent to the Supreme Government, or whether they are sent direct to the Court of Directors?

I have no doubt whatever that they are sent direct to the Court of Directors; but I think it probable that the accounts are also sent to the Supreme Government.

2854. Then the only object of the regulation that forbids expenditure at Madras, without the sanction of the Governor-general in Council, is to promote economy?

I cannot say that it appears to me that that is the only object. I do not know what the object may be; but I should have thought it possible that the Legislature, in giving that power to the Supreme Government which it gave by the rule referred to, may have conceived, that, in consequence, not only less money would be spent, but wiser measures would be taken. In saying this, however, I would not be understood to intimate that, in my opinion, the rule was really fitted to promote the public interest in either of those ways. If the object was economy, perhaps it may not be considered irrelevant to make the remark, that, as far as ever I have had any means of judging, there was better economy practised in Madras than in Bengal.

2855. If economy was the object of the Legislature in making that provision, you do not conceive that that object has been attained by it?

I should not myself have considered that the provision was well adapted to attain that object; nor do I conceive that that object has been attained by it.

2856. Every new measure must involve some expenditure, and therefore this regulation, in fact, fetters the local Government as regards every new measure?

Yes; that is the view which I take of its tendency and operation.

2857. Do not you think it would be better, with a view to economy, if a certain sum was allotted annually to the two Presidencies to be expended on public works; do you not think that they would be more likely to make an economical

economical use of that sum, if they were allowed to dispose of it as they thought best, than under the present system of sending every separate item to the Supreme Government, by whom the details cannot possibly be understood, and who are as likely to sanction a useless project as a useful one?

I believe I shall be meeting the question by saying that I think that the public interests would be better promoted by leaving the distribution of any sum which may be allotted, to be expended on public works in the Presidency of Madras as in the Presidency of Bombay, entirely to the Government of the Presidency, than by the Supreme Government's taking upon itself the direction in detail of the manner in which the sum is to be laid out.

2858. Is any application made to the Home Government, that is, to the Court of Directors, to sanction expenditure, as well as to the Governor-general in Council?

While I was at Madras it was usual to make references to the Home Government for the sanction of proposed measures which involved expenditure; but that course was not observed as an unbending rule. A very large discretion was exercised by the Government in determining what cases should be referred to the home authorities for their sanction of expense before it was incurred, and in what cases the Government should take upon itself to incur expense without the previous sanction of the home authorities.

2859. You are speaking of the time before the law had been altered under which application is required to be made to the Governor-general in Council?

Yes.

2860. Are the Committee to understand, from your answers, that you do not think it necessary that there should exist in the general Government of India a power of control of the entire expenditure for the whole of the Empire?

I did not mean to go so far as to say that the general Government of India should not possess a general control over the whole finances of India, and the whole expenditure of India; but it does appear to me, that if the Government of Madras is laid under a rule, which engages it to apply to the Supreme Government for sanction for all new expenses which may be incurred, the operation of that rule must be very prejudicial to the public interests.

2861. But you think that the Government of India should exercise a control over the expenditure of the Government of Madras?

Only in a very general way.

2862. What distinction do you make between a general and a particular control?

I am not prepared to define a general control, and draw a line between it and a particular control; but I think it better that all control over the expenditure of the Government of Madras which is other than of a very general nature, should be exercised by the home authorities than by the Governor-general in Council.

2863. Then you think that there should be no such control exercised in India?

My opinion does not go so far as that no control should be exercised in India: for example, I think that if the Governor-general in Council saw reason to believe that there was any lavish expenditure in any particular department, it would be proper that a letter should be written to the local Government pointing it out; and, as the case might require, asking for explanations, or giving directions on the subject, and also that a representation on the subject, if thought necessary, should be made to the home authorities; but I do think that the ordinary control over the expenditure of the Madras Government might much more beneficially to the public interests be exercised by the home authorities than by the Governor-general in Council.

2864. Might not that general control be attained by fixing beforehand for the expense of the year a sum beyond which the Madras Government should not be allowed to incur expense?

That is a subject to which I have not given any particular consideration.

2865. Either a certain per-centage upon the revenue, or a certain gross sum?

It appears to me that that course would be open to objection; but I have not

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maturely considered it. With regard to the questions which were asked me about the Indian penal code, I beg to be allowed to explain myself a little: what I wish to say has reference also to a question which was asked me, as to whether it is expedient that the fourth member of Council should be President of the Law Commission: during the time I was in the Law Commission, the fourth member of Council was President of the Law Commission; those offices, it is known to your Lordships, were filled by a gentleman of great name, and of very great abilities. I think it right to state, that Mr. Macaulay, whose great powers are so well known, applied those great powers with the utmost assiduity for upwards of two years to the preparation of the penal code. That was his great work during his residence in India: I do not mean to say that he singly prepared the code without assistance from the other Commissioners; no man without assistance could prepare such a code; but it is right that it should be known that his great powers were fully and most assiduously applied to that work for the greatest part of the time that he was in India. It was mainly by that means, and the use of such care and caution as could hardly be surpassed, that a work was produced fit to undergo such an ordeal of comment and criticism as it has, I may say unscathed, passed through. It appears to me that the knowledge of this fact is calculated to promote the just appreciation of the code; and the more justly it is appreciated, the more regret I am convinced must be felt that so long a period has been allowed to elapse without the full benefit of it being conferred on the people of India by its being enacted; as I can make no pretension to having had any other than a secondary hand in the preparation of the code, I hope it will not be considered improper in me to have spoken in the way I have now done of its merits.

2866. Your opinion is, that that code could now be applied with advantage to the whole or the greater part of India?

That is my opinion, and I think I could state some points of importance with reference to the fitness of the code to be made the law of India. I understand, and have not the least doubt of the fact, that it was recommended by the judges of the Sudder Adawlut of Madras, which is the Company's Supreme Court there, to be enacted; and a curious fact came to my knowledge some years ago, which is, that the code, though unenacted, was the actual law which guided the Judges for the most part in the Presidency of Bombay; the Presidency in which it was said at the time the Commission began the duty of framing the code, that no such measure was necessary, whatever might be the case at the other Presidencies, as at Bombay they had already a code which was fitted to the condition of the country. Now, I have understood, on the best authority, some years ago, that the penal code, as framed by the Commission, having been printed and distributed, was very extensively made use of by the judges of Bombay in guiding them with regard to the sentences that they passed upon prisoners; the fact being that, what is called their code, leaves almost everything to the discretion of the judges. The penal code has also in some degree been acted upon in other parts of India. I have understood some years ago that it has been acted upon in Coorg. I have understood lately that it was acted upon in the Punjaub, but of that I have no certain information. I mention these things, because they tend to show that practical men have found it a law fit to be acted upon; it has been voluntarily adopted as their guide by men employed to administer justice in India.

2867. At the pleasure in each case of the particular judge?

Yes; that is, without legal authority requiring him so to act upon it.

2868. Has it been applied to Europeans and to all classes of natives?

The judges of whom I speak have no jurisdiction over Europeans in criminal cases: the code has not yet been used by the judges of Her Majesty's Supreme Courts: they are guided by the English law.

2869. But if this code were enacted, it would overrule the English law?

Yes; if it were enacted as the general law of India, it would in that country supersede the English criminal law. With reference to a question which was asked me at my former examination respecting other matters besides the penal law, which were referred by the Government to the consideration of the Law Commission, I now beg leave to tender to your Lordships a list of special reports made by the Commission on various subjects during the time I was a member

member of it. I apprehend that the list is not quite complete; but I believe that, as regards the accuracy of its contents, it may safely be depended on. It may be permitted me to state, that during the same period inquiries were begun on other important subjects; I may name Slavery as an instance, on which the Commission made reports afterwards. And I ought not to omit to mention that for two years in that period all the members of the Law Commission were, together with the judges of Her Majesty's Supreme Court at Calcutta, and some other gentlemen, members of a Committee appointed by the Government for the special purpose of inquiring and reporting on the subject of the Prison Discipline of India, a duty which engaged a considerable portion of the time and attention of the Commissioners and a large portion of the time and attention of their able secretary, Mr. John Peter Grant, who was also both a member and secretary of the Committee, and by whom a very full and elaborate report, in which the Committee submitted the result of their inquiries and deliberations to the Government, was drawn up.

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The Witness is directed to withdraw.

ROBERT KEITH PRINGLE, Esquire, is called in, and examined as follows:

R. K. Pringle, Esq.

2870. DURING a considerable part of the time you lived in India you were in Bombay?

Yes, during the whole period of my service I was in the Bombay Presidency.

2871. Were you secretary to the Council?

First I was secretary in the general department for a few months, and subsequently, for about a year, chief secretary and secretary in the Financial and Revenue Department.

2872. Will you have the goodness to state to the Committee the relations of the Presidency of Bombay with the Governor-general in Council?

Copies of all our proceedings are submitted to the Governor-general in Council, and within certain limits no charge can be incurred without the sanction of that authority: the limits are very narrow.

2873. Were copies or abstracts sent to the Governor-general?

I do not distinctly recollect; I think copies were sent.

2874. Did the Governor-general in Council interfere in the minute details of the Presidency of Bombay?

He had power to do so; but I do not think that that power was very frequently exercised.

2875. When did you give up the secretaryship?

In September 1847.

2876. Were you at Bombay before the passing of the last Charter Act?

I was in the Bombay Presidency before that time.

2877. Can you point out to the Committee the general distinction between the mode of action under the former Charter Act and under the subsequent Charter Act of 1833?

I had not any very great opportunity of observing the difference; but I think it was more with regard to the authority to create new appointments, and to incur large or permanent charges: as respects these, the powers of the local Government were much more restricted than they had been before; except upon that point, I do not remember any marked difference.

2878. In your judgment, did any inconvenience arise from the restriction which was imposed upon the Bombay Government?

Yes I think inconvenience arose from it.

2879. Will you state what the inconvenience was?

The inconvenience was the great difficulty in getting any new appointments created which were necessary for the public service; the obstacles that were thrown in the way were so numerous, and it required such detailed explanations

before authority could be got to constitute any new office, that it created great embarrassment to the local Government, and tended to prevent its establishments being made so efficient as they might have be.

2880. Had the Bombay Government any direct communication with the authorities at home?
Yes.

2881. Did it frequently happen that appeals were made to the Government at home from the orders of the Governor-general in Council?
I believe there were occasionally such appeals; but I could not specify instances from my own recollection.

2882. Of what nature were those appeals?
I think there were occasionally appeals on the subject of differences in matters of expenditure.

2883. Was there any appeal upon legislative matters?
Not within my recollection.

2884. The only inconvenience that arose was from the difficulty of getting the sanction of appointments at Bombay?
There may have been others; but that is the only one that strikes me particularly.

2885. There is very little artificial irrigation in the Bombay Presidency; the expenditure upon works of irrigation is comparatively small?
It is small in the Bombay Presidency generally; but there is a considerable sum expended in Scinde, which is now under Bombay.

2886. The Bombay Government was not competent of itself to incur expense, except within very narrow limits, for works of irrigation?
I think in the construction of works the power was considerable; it was more in constituting new offices that the limits were very narrow. There were limits within which they could of their own authority sanction expenditure for works of irrigation, or any other purpose of that kind; but the restriction was felt more in constituting permanent charges for new offices.

2887. Is the Government of Bombay formed of the Governor-general and a Council?
Yes, of the Governor and Council.

2888. How many Councillors are there?
There are two civil members of Council, besides the Commnader-in-Chief; and if the Commander-in-Chief is not a member, the provisional civil member may be called in to fill the third place.

2889. Is the Commander-in-Chief of necessity a member of Council?
Not necessarily so; but he always has been so when he has been appointed from home. When the command of the forces has devolved temporarily upon a general officer of the staff, I do not think he has been a member of Council.

2890. By whom are the Councillors appointed?
By the Court of Directors.

2891. Has the secretary any power in the Council, or does he only record the directions of the Council?
He has no legal power; but of course he has considerable influence, from his experience, in giving his opinion, and in assisting the Governor upon any matter that comes before him.

2892. The question has been put to many witnesses as regards the Presidency of Bombay, whether it would be desirable to continue that, as at present, with a Council, or to leave the Governor without a Council; what would be your opinion upon that point?
I think if you had an able and active Governor, his powers of government would be exercised more efficiently without a Council; but as you cannot always depend upon that, I think the aid of a Council is salutary; also, from the necessity of the members recording their sentiments in writing, in case of a difference

difference of opinion, it provides greater security for deliberation in their proceedings, and affords the controlling authorities better means of judging of the merits of the questions which come under discussion.

2893. Can you suggest any mode by which the relations between the Government of Bombay and the general Government of India can be improved, so as more fully to develope the resources of Bombay?

I think too free an action can hardly be given to the local Government in all matters of internal administration. I think they are more capable of exercising power efficiently in such matters than the general Government of India can be.

2894. Do you think that the powers of local government are too much curtailed at present?

I think so, as regards the creation of appointments, and especially minor appointments.

2895. Do you think it better that any such expenditure of the local Government should be made referable to the Government at home, rather than to the Governor-general in Council?

I think it would be desirable that every expenditure of the Presidency should come periodically under the revision of the Supreme Government, as the whole of the finances of India would be affected by it; and they should have the power of calling for explanation in any instances.

2896. But not a power of disallowing any expenditure?

It is not a power which it would be desirable to have exercised frequently or minutely; but, of course, in extraordinary cases of expenditure, it would be reasonable that the Governor-general should have a power of disallowing it, subject to a reference to the home authorities.

2897. The extent of the power of the Governor-general should be limited by the amount which is proposed to be expended?

Yes.

2898. But you think that the limit to which the Presidency is now confined is too narrow?

I do; no office under 10 rupees a month can be created by the local Government without a previous reference to the Government of India. At first the minor Presidencies were required to make such reference in each individual case even under that amount. Then that was found to be so inconvenient, that they were requested, instead of referring each case, to send monthly tabular statements of new appointments, or changes in old ones, within the limit of 10 rupees of monthly salary, which worked very well; it did away with the inconvenience of such frequent reference.

2899. Does the restriction of the local Government with regard to appointments affect the power of the local Government injuriously?

I think it affects their efficiency more than anything else.

2900. Are you aware that repeated complaints have been made of the expenditure of the Bombay Government both by the home authorities and by the general Government of India?

I have heard that such was the case.

2901. Did the expenditure of the Bombay Government exceed the revenue?

Yes, I believe it did; but there were included in that expenditure several charges, viz. the Indian navy and others, that were more imperial charges than charges upon the Government of Bombay.

2902. If you would still leave the power to the Governor-general in extreme cases, the alteration you would suggest is rather as to the manner of exercising the power than as to the power itself?

Yes, I think so.

2903. Is the Government of Bombay principally carried on by the covenanted servants of the Company, or are there uncovenanted servants?

By covenanted servants almost entirely, except the native officers; recently, I believe,

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I believe, they have appointed a class of uncovenanted magistrates; but that is only within the last year.

2904. Are those Europeans, or natives?
They may be either; some of them are half-castes, and some are Europeans; but this measure has been introduced since I left India, and therefore I have no personal knowledge of it.

2905. Do you think that the native servants are fitted for any of the higher offices of the State?
I do not think you could safely extend the powers which they possess beyond the present limits in the Bombay Presidency, either in the Judicial or the Revenue branch; but I should be glad to see the native officers in the Revenue branch better paid; their powers are very considerable, but I think their pay is inadequate to the trust reposed in them.

2906. Does that inadequate pay lead to abuses on the part of those native officers?
I have no doubt it does, in some degree; if they were better paid, it would act as a greater safeguard.

2907. Generally speaking, do you think that they are corrupt?
Instances of corruption have been not unfrequent among the natives; but I do not think that they have been placed in a fair position with reference to their allowances, and the trust reposed in them.

2908. In proportion as they are well paid, you think that they may safely be trusted?
I would not exactly say that; but if they were better paid you would have a better chance of finding honesty among them.

2909. You expose them to very great temptation, with but very inadequate means of resisting such temptation?
Yes.

2910. Are the half-castes well thought of?
They have been very little employed under the Bombay Presidency, except as writers in public offices; one or two have conducted themselves very well in the executive department in the interior.

2911. The employment of natives has been very much extended in your experience of India?
In Bombay, when we first got possession of the Deccan, under Mr. Elphinstone, the natives were considerably employed; but I do not think it has been extended since, except, perhaps, in the Judicial Department; I think it has been carried as far as it can be safely carried at present; all original suits are now tried by natives.

The Witness is directed to withdraw.

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JOHN STUART MILL, Esquire, is called in, and examined as follows:

2912. WHAT connexion have you had with the Government of India?
I am one of the assistants to the Examiner of Indian Correspondence, in whose office the greater part of the correspondence with India relating to the Government is conducted.

2913. For what length of time have you been in that office?
Since the year 1823, and nearly the whole of that time in the Correspondence Department; in fact, I may say the whole of it.

2914. Have you been exclusively in that department, or in others also?
Exclusively in that department.

2915. Have we reason, do you think, on the whole, to feel satisfied with the general working of the Home Government of India?
The present constitution of the Indian Government, considering the great difficulties of the case, seems to me to have worked very satisfactorily.

2916. Will

2916. Will you state more specifically the causes to which you attribute the satisfactory working of the Government?

I conceive that there are several causes; probably the most important is, that the whole Government of India is carried on in writing. All the orders given, and all the acts of the executive officers, are reported in writing, and the whole of the original correspondence is sent to the Home Government; so that there is no single act done in India, the whole of the reasons for which are not placed on record. This appears to me a greater security for good government than exists in almost any other government in the world, because no other probably has a system of recordation so complete.

2917. In those records do you find the records of opinions?

To a very great extent. If the local officer and the Government differ in opinion, or if the opinions of the different members of the Government differ from one another, the reasons on both sides, and the discussions that take place, are put in writing, and reported to the Home Government, who are thus in possession of all the materials of knowledge that the local authorities can supply.

2918. What do you think would be the consequence of Parliament interfering more frequently and more extensively in the government of India?

I think that many bad, and few good consequences would result. The public opinion of one country is scarcely any security for the good government of another. The people of one country, whether represented by the public authorities of this country, or by the nation itself, cannot have the same acquaintance with the circumstances and interests of the other country as they may have with their own. The great security for the good government of any country is an enlightened public opinion; but an unenlightened public opinion is no security for good government. The people of England are unacquainted, or very ill acquainted, with the people and the circumstances of India, and feel so little interest in them, that I apprehend the influence of public opinion in this country on the Government of India is of very little value, because there are very few cases in which public opinion is called into exercise; and when it is so, it is usually from impulses derived from the interests of Europeans connected with India, rather than from the interests of the people of India itself.

2919. Supposing that appeals were permitted freely to the English Parliament from the decisions of the Governor-general of India, in cases of resumption, such as have taken place at different times, do you think that that would tend greatly to impair the power of the Government of India?

I think that anything which causes the people of India to look beyond the Government of India to any authority here, of which they have no knowledge, and concerning which they have most indefinite ideas, would tend to weaken the local Government. Of course that inconvenience must be submitted to in so far as it has any tendency to increase the security for good government; but the real security for the good government of India depends, as it seems to me, upon a careful review of the Acts of the local Government, grounded on the transmission of all the recorded proceedings to this country. The proceedings are subjected to a very rigid examination, not, of course, as to all their details, but as to their general principles, and the spirit in which those general principles are applied to particular cases; this seems to me the only kind of appeal that is of any considerable value in regard to the government of a country at such a distance, and in the peculiar circumstances of India.

2920. Will you state the successive checks which operated upon the occasion of the deposition of the Rajah of Sattara?

There was first the decision of the Bombay Government; and then that decision could not take effect without the concurrence of the Government of India, which was, therefore, the first check or appeal, as it may be called. In the next place, that decision was subject to reversal by the joint action of the Court of Directors and the Board of Control; and, finally, it was open to any Member of either House of Parliament to bring forward a Motion, which, if it had been effectual, might have led to a Parliamentary inquiry, or eventually to a reversal of the Act.

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2921. And to a certain extent there might have been the interposition of the Court of Proprietors?

The Court of Proprietors would have had no power of reversing what had been done. They have the power of holding a public discussion, which, as a means of publicity, is not without value.

2922. In regard to the action on that occasion of the Government of Bombay, was there not a minute recorded of the Governor, and were there not also minutes recorded of each member of Council?

There were. In the first place, there was the report of the local officer, the Resident at Sattara; this report was then the subject of discussion in the Council, and the Governor and each member of Council recorded their opinion. When they, either unanimously or by a majority, had formed their opinion, they communicated it in a despatch to the Governor-general in Council, who issued the final orders—final as far as India was concerned.

2923. When this despatch, accompanied by the recorded minutes, were forwarded to the Government of India, were there not further minutes written by the Governor-general and the members of Council, each giving his opinion separately upon the subject?

Whether that was so in that particular case, I am not certain, but I believe so. In cases of importance it almost invariably happens that the opinion of each member of Council is recorded separately.

2924. With his reasons?

With his reasons.

2925. All those reports were then forwarded to the Court of Directors?

Yes.

2926. And the subject was discussed by the Court of Directors?

Yes.

2927. Was there further minutes entered upon the journals of the Court of Directors upon the same subject?

It is not usual to enter on the records of the Court any minutes of opinions, except dissents. After a resolution is passed, any member of the Court who dissents from the resolution, if he thinks the matter of sufficient importance, records his dissent, accompanied with reasons, and those are, as a matter of course, communicated to the Board of Control.

2928. Are those dissents communicated to the general Court, or to the Committee?

The dissents are recorded on the minutes of the Court, and have nothing to do with any Committee.

2929. The expression of all those opinions was submitted to the Board of Control before the ultimate decision was taken upon the subject?

Yes; it does occasionally, but seldom, happen, that the ultimate decision is taken before the dissent has been sent to the Board.

2930. It is only in cases where the question has been so repeatedly discussed, that it is thought hardly necessary to send up the dissents; but in the first instance, all the dissents are sent up?

The dissents are sent to the Board as soon as they are copied; but cases have happened, though not, I believe, in matters of importance, when the despatch has been sent back approved by the Board before the dissent reached them: it is only in those cases that the Board has not had the advantage of the dissents before its final decision.

2931. Any member of the Court of Proprietors moreover may, if he thinks fit, raise a question for public discussion, and appeal to the public in England upon the subject?

Any nine members may sign a requisition for a special meeting of the Court of Proprietors, or any one proprietor may, at a quarterly meeting, after notice, make a motion on any matter connected with Indian affairs.

2932. You think that those successive checks operate more beneficially for the protection of the natives of India than any constant interference of Parliament on their behalf?

No

No one will deny that it is necessary that Parliament should be open to appeals on all subjects connected with the government of any part of the British Empire; but, so far as my experience goes, I should say that the security for the good government of India derived from discussions in Parliament is far short of that derived from the habitual examination of all papers of any importance by persons specially devoted to that object.

2933. Persons who have no sinister interest?

It is next to impossible to form in one country an organ of government for another which shall have a strong interest in good government; but if that cannot be done, the next best thing is, to form a body with the least possible interest in bad government; and I conceive that the present governing bodies in this country for the affairs of India have as little sinister interest of any kind as any government in the world.

2934. Have the natives of India shown a disposition to employ agents in this country for the prosecutions of appeals against the decisions of the Governor-general?

Yes; and I think with increasing frequency.

2935. If the opinion became prevalent in India that changes of decision on matters of individual and immediate interest might be readily produced by such appeals to Parliament, do you think that they would become very frequent?

Those best acquainted with India say, that the natives are exceedingly averse to giving up any pretension whatever, until they have tried every resource within their reach for getting a hostile decision reversed. I think if it were the habit of the people of India to look to a revision of their cases in England, as a thing which could be procured by sending vakeels, or delegates, here, they would very frequently do so, incurring much useless expense, and often ultimate disappointment. But the proper remedy is, that the Home Government should so act as to convince the natives of India that if their case is just, they will have full justice done to them, on a review of the papers, without sending any one here to represent them; and that if their case is unjust, however many people they may send, it will do them no good.

2936. Would money be wanting on their part to prosecute such appeals?

There are many natives who have ample means for the purpose.

2937. Can you suggest any improvements in the present Home Government of India?

It is difficult to suggest alterations in a system of Government, of which the good working, so far as it has worked well, could not have been predicted beforehand. The present constitution of the Government of India has been very much the growth of accident, and has worked well, in consequence of things which were not foreseen, and were not in the contemplation of those who established it in a great measure, from causes not provided for in the received theories of government. So much of the good working of the present Government being the result of accident, accident would probably have a great share in determining the operation of any new system which might be substituted for it; but it would be necessary to keep in view in any alteration the circumstances, so far as they can be assigned, which have been the causes of the beneficial working hitherto. Among the first of those seems to me to be, that those who are sent to administer the affairs of India, are not sent to any particular appointment; they go out merely as candidates; they go out when young, and go through the necessary course of preparation in subordinate functions before they can arrive at the higher ones. That seems to me the first essential requisite for the good government of India. A second great advantage of the present system is, that those who are sent out as candidates to rise by degrees to the higher offices, are generally unconnected with the influential classes in this country, and out of the range of Parliamentary influence. The consequence is, that those who have the disposal of offices in India have little or no motive to put unfit persons into important situations, or to permit unjustifiable acts to be done by them. Any change in the government of India which would bring the appointment to Indian offices into the ordinary channels of political or Parliamentary influence would, I think, take away one of the chief causes of whatever is beneficial in the present working of the Government of India.

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2938. Would the sale of such appointments, in your opinion, operate injuriously?
It would probably bring a much greater proportion of them than at present into the channels in which political influence flows in this country, and in so far as it did so I think it would deteriorate the Indian Government. At present, the civil servants, appointed very young, and by individual members of the Court, do not usually become eligible for any very high appointment during the time that the Directors who appointed them can be supposed to have any influence over their promotion. Partly from this circumstance, and partly because the person who gives the appointment is only one of 24, it is my belief there is hardly any government existing in which there is so little personal jobbing as in the Government of India.

2939. Is there not a tendency, from the patronage being administered from private and personal motives, to the service of India becoming a sort of caste of particular families and particular connexions?
I should say not more than is in the nature of the case, and not to such an extent as to be an evil. It will happen under any system that persons who have served in India will look by preference to Indian appointments for their sons; and they would under any system be likely to have readier access to Indian than to any other appointments. In whatever manner the Home Government might be constituted, it would doubtless be partly composed of persons who have served in India, and, if so, the patronage in their gift would flow in the same channels as at present.

2940. Is it not generally supposed that the patronage in the hands of the Directors is made use of to obtain elections to the Court?
I have heard of such things; I do not know how far that is the case. I have no doubt the directors bestow their patronage on those who have served them in that, or any other way. But the main point appears to me to be, that neither a Director, nor any one else connected with the Home Government, has it in his power to appoint an unfit person to any situation in India: the only thing he can do is, to send out a candidate, who will ultimately obtain an important situation if he is considered fit for it by the local Government; but since the appointment here is only the appointment of a candidate, who is to go to India, and make himself fit for an important situation before he can receive it, the bestowing of this patronage from private motives is not attended with the evils which would arise from making appointments to office on private grounds.

2941. Has not the influence of the proprietors, in the bestowal of the patronage, the effect of distributing the patronage more largely and more widely among the community?
No doubt it has; the general course in which the patronage flows is among the middle classes.

2942. What do you mean by the middle classes?
I mean, in the present case, by the middle classes, the classes unconnected with politics, or with the two Houses of Parliament.

2943. It has been frequently observed that a very large proportion of the servants of the East India Company have been selected from that part of the kingdom north of the Tweed; is it your opinion that such is the case, or not?
It was the case at one time, from accidental circumstances. One of the causes was said to be, that the first Lord Melville was so long President of the Board of Control; at present I am not aware that there is a larger proportion of Scotch in the Indian service than in other departments of the public service.

2944. It is your opinion that there are not a greater number of Scotchmen in the East India Company's service than Englishmen or Irishmen?
I do not think there are.

2945. Do you consider a tradesman to belong to the middle class, or not?
I do.

2946. Are there not a great many sons of tradesmen sent to India?
I am not aware what the proportion is; but I have no doubt that there are some.

2947. What circumstance, in your opinion, leads to the appointment of sons of tradesmen to writerships, or cadetships?

I cannot

I cannot answer that question; I have no knowledge of the motives which operate on Directors in disposing of their patronage.

2948. Is it not a curious circumstance that the son of a horse-dealer should be sent to India as a cadet?

The son of a horse-dealer is as likely to qualify himself in the subordinate situations for succeeding to the higher as the son of any one else.

2949. But that is not exactly the class from which you would select persons to be the companions of gentlemen who are to fill honourable professions?

It is not the class from whom cadets or writers are generally selected; but I see no reason why such persons should be excluded.

2950. Do you see any reason why the aristocracy should be excluded?

I see no reason for excluding any one; but it does seem to me undesirable that those who are appointed to situations in India should be persons permanently connected with political parties, or with Parliamentary influence at home.

2951. Do not you think that the higher the class of men who are appointed to fill our civil situations in India, the greater the security for the connection between India and England?

I think that the permanence of the connection between India and England depends upon our being able to give good government to India, and to persuade the people of India that we do so.

2952. Is it your opinion that those persons ought to be excluded from the Indian service who have any connection with the great political parties in this country?

I would exclude no one; but I think it is a recommendation of the present system that those appointed under it are mostly unconnected with the possessors of Parliamentary influence.

2953. You think that that is advantageous to the Government of India?

It is the greatest protection that can be obtained against improper appointments.

2954. Hitherto there has not been even a suspicion against the manner in which the Governor-general has exercised his power of selection?

The Governor-general can seldom have any motive to appoint unfit persons to situations in India, because while the service is taken from one class, the Governor-general belongs to another, and none of his personal or political connexions are in the class from which the service is taken. He has thus no personal interest in appointing persons to situations for which they are unfit, and I believe it is very seldom that such appointments take place, except by mistake, or negligence.

2955. Should you think it an extraordinary circumstance if you heard that a gentleman, on being appointed Governor-general, had, in the course of ten days, before he could get out to India, no less than 400 letters asking him for appointments?

I should not be surprised to hear of any number of applications for appointments.

2956. What is the second circumstance to which you alluded as a recommendation of the existing constitution of the Government of India?

The two circumstances which I mentioned were, in the first place, that those who are sent out are merely candidates; they are never, or very rarely, appointed from England to any situation in India. The second circumstance was, that by the time those candidates come to be eligible for high situations, it generally happens that the Director from whom they received their nomination is no longer a Director.

2957. Those circumstances that you have stated have reference solely to the appointment and promotion of civil servants. Do you see any other circumstance in the working of the Government at home which would recommend it to Parliament for renewal?

The great reason, as it seems to me, recommending it for renewal, is the difficulty, if not impossibility, of forming a system of government which would be likely to work better.

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2958. The late Sir Charles Forbes was not a Director?
He was not; but he had a son a Director at one time.

2959. He took a great deal of interest in the election of Directors?
He had great influence in the elections.

2960. Was he not connected with a party which hung together with the view of influencing the election of Directors?
I am not aware that he was.

2961. Should you be surprised to hear that Sir Charles Forbes, in the course of his life, had obtained 40 different appointments, and that he had the curiosity to have the likeness taken of every young man for whom he obtained an appointment, and those likenesses were hung round his room?
From his long connexion with the Court of Directors, I should not be surprised at his having obtained that number of appointments. Those who were appointed on his recommendation have been as good servants as any others. If it were only from having a son a Director, he might obtain in a number of years almost that number of appointments.

2962. Have you ever looked at the list of voters for the election of Directors for the purpose of seeing how many gentlemen can obtain a majority of votes?
I have never examined the list with that particular view.

2963. Should you be surprised if you found, on looking into it, that 413 gentlemen had 910 votes?
I should not. That might be the result under any system which gives a plurality of votes on account of the property held.

2964. Have you looked into the list which has been presented from the India House of the number of persons having more than one vote, and the number of voters and the number of votes?
I know that there is a considerable number who have two, three, or four stars opposite to their names. If I am asked whether I think it would be better to give only one vote to each elector, I am inclined to think that it would make no practical difference of any importance. The proprietors are not a body which any one would have selected *à priori* for the election of Directors. Any other body whatever of respectable men would be as likely to elect proper persons as this, and this as likely as any other. As you cannot constitute an elective body in this country identified with the interests of the people of India, it does not appear to me to matter much what the body is.

2965. Need the present body be identified with the interests of India, looking to what the qualification of the elector is beyond this, that it is their interest to see that the interest of the debt is paid?
That is the only interest they have in India.

2966. Do you think that the existence of the proprietors as an elective body has the effect of distributing more widely the patronage of the Court of Directors who now distribute it, than if such proprietory body did not exist, and had no claim upon the distribution?
I cannot answer that question; I am ignorant what proportion of the patronage of India goes to the proprietors; and whatever the proportion may be, some considerable part of it would go into the same channels if no such body as the proprietors existed.

2967. The more limited the number of persons who distribute the patronage, and the more limited the claims upon them, the more likely that patronage would be to pass in narrow channels connected with the individuals who gave it?
It seems to me the primary and essential object that appointments in India should not be held by persons who have Parliamentary and political influence at home; that being the source from which inducements to make bad appointments, or to sanction bad measures, are most likely to come.

2968. What is there in the constitution of the present Court of Proprietors which prevents any political party in this country from becoming proprietors, and, therefore, electors of the Court of Directors?

There

There is nothing to prevent it; but it has not been the fact, and it is not likely to be the fact.

2969. Is there any necessary connexion between the possession of a certain amount of stock, which gives a vote to the party holding it, and interest in the good government of India; and do you think that it would be desirable to introduce some more direct connexion with India on the part of the electors?

I think there is a good deal to be said both for and against any such proposition.

2970. Will you have the goodness to state what the arguments are for and against it?

If the question were put with reference to some particular proposition, I might be able to answer more satisfactorily.

2971. Is it your opinion that it would be desirable to allow the holders of the debt in India to vote for the Directors, or to give a right of voting to the Company's servants?

I think the constitution of the body of proprietors is of less importance than almost any other question connected with the Government of India; but the main fault of the present system is the long and troublesome canvass which is necessary to enable any person to be appointed a Director; and if there were an increase of the constituency, it is a question whether it would tend to make this canvass a greater or a less burden; it might do either the one or the other.

2972. What objection should you have to Mr. Wynne's proposal, that the Crown should have the power of appointing Indian servants as Directors on their return from India to this country?

I think the fact that all Indian proceedings are reviewed by two separate bodies, independent of one another, is a much greater security for good government than would exist under any system by which those two bodies were merged into one. The double revision by persons of a different class, in a different position, and probably with different prepossessions, tends greatly to promote a close and rigid examination.

2973. Do you suppose that the present system operates as a sufficient check upon the President of the Board of Control?

To judge of the present system, it must be compared with some other. If we compare it with the system of an Indian Minister, who should have both the initiation and the final decision, he would act under a much less check than he now does. The Court of Directors, who are the initiating body, not being the body which finally decides; not being able to act but by the concurrence of a second authority, and having no means of causing their opinion to be adopted by that authority, except the strength of their reasons, there is much greater probability that a body so situated will examine and weigh carefully the grounds of all proceedings, than if the same body which had the initiative gave the final order.

2974. On the whole, you conceive that the Court of Directors are the best administrative body that could be found under the peculiar circumstances of the Government of India?

I would not pretend to say that no better could be found; but it seems to me they are as good a body as there is any probability of obtaining. Not having the final power, all the power which they exercise depends upon the care which they bestow upon the examination and consideration of the matters committed to them.

2975. Are you acquainted yourself with the details of the correspondence between the Court of Directors and the Board of Control; can you trace a letter from the moment when it originates, to its final arrival before the Board of Control, or does your position enable you to know anything about it?

In most cases it does.

2976. With whom does the letter originate?

With the Chairman.

2977. Nominally and officially it originates with the Chairman; but does the Chairman, in fact, give instructions for writing the letter?

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That depends upon circumstances. There is a vast mass of ordinary business respecting which the Chairman neither feels called upon to give previous instructions, nor do those who have the care of the department think it necessary to ask for them.

2978. In point of fact, does it not frequently happen that the correspondence is examined by the clerk, or the secretary, and he suggests what the reply shall be?

Sometimes so, and sometimes not. In the course of business, the papers come first into the hands of the secretary or clerk, or the person who is in charge of the correspondence; it is his duty, in bringing those papers to the notice of the Chairman, to be able to answer all questions concerning them, and it is expected of him that he shall have formed an opinion upon the subject.

2979. It is expected that he shall suggest what the answer shall be?

It is not expected; but he is always at liberty to do so.

2980. Is it not the practice?

It is not the practice universally; it is the practice in ordinary matters.

2981. Is it the general practice?

There is no general practice. It is usual for the person in charge of the correspondence to ask the previous instructions of the Chairman, when he thinks there is any doubt of what the opinions of the Chairman would be.

2982. Does he not write a memorandum first of all of the facts?

That is sometimes done in complicated and important cases.

2983. Is it not done universally; is not the substance of the papers in the collection stated in a memorandum, for the convenience of the Chairman; how can he possibly read all the papers himself?

It is sometimes stated in the form of a memorandum, and sometimes in that of proposed letter.

2984. But in all cases the substance, at least, is stated in some manner to the Chairman?

Yes.

2985. Together with the opinion of the clerk who makes the statement?

With an opinion, or without an opinion. Sometimes the officer who makes the statement thinks it desirable to ask the Chairman's instructions first on the facts merely, without giving any opinion. In some cases again the Chairman does not wait till he has the facts brought before him, but sends for the officer, interrogates him on the facts, and gives instructions for preparing the reply, after calling for whatever papers he thinks necessary to understand it. The modes of proceeding vary according to the degree of importance ascribed to the matter, and according to the degree of interest the Chairman takes in the subject.

2986. Do not they vary according to the business-like habits of the Chairman?

They do; but since the last Charter, it has very seldom happened that the Chairman has not been a man of business.

2987. Is it not a rare circumstance that the view of the Chairman is disregarded?

By no means. On subjects on which a difference of opinion can fairly exist, it very often happens.

2988. What is the character of the opinion expressed by the clerk; does it consist in remarks upon the correspondence in the way of censure or approval?

Yes.

2989. Do you know any one measure which has originated at home?

It is scarcely possible to say where measures really originate. In cases of emergency, such as war, anything done must necessarily depend upon the Governor-general on the spot; and all that can be done by the home authorities is to express an opinion upon it after it is done, which may have an influence on the Government in future cases. But with reference to internal government, I am not aware of any great measures which have been adopted until after there has been a great deal of discussion between the Local Government and the Home Government

Government on the subject; and though the measure may have originated nominally with the Government of India, the suggestions may often be traced to instructions which had been given, or principles laid down in despatches sent from the home authorities.

2990. At the distance of many years?
The despatches from the India House have in many cases tended greatly to form the opinions of Indian politicians in India.

2991. In the case of the abolition of the 160 duties in the North-western frontier in the year 1843, did that measure originate here?
I am not conversant with the details of the Revenue department, though I am, of course, acquainted with its general principles.

2992. Should you not say that the general government of India proceeds on all great occasions without receiving special instructions from home?
I think a case can hardly happen in which the Government of India is not tolerably well aware, from previous despatches, whether the course which is about to be adopted is likely to have the approval of the home authorities. There is hardly any measure adopted of which the general principle might not be found discussed in the previous correspondence.

2993. Do not you know whether the abolition of 160 duties upon the North-western frontier was approved or not?
I am not aware whether it was approved at the time, but it was sanctioned.

2994. You spoke of the working of the Government being, considering the difficulties, very satisfactory. Can you point out any of the difficulties to which you allude which would be removable by Parliament?
It is difficult to foresee in what way alterations would work. But any alteration which placed the control of the Government in some one authority, instead of leaving it divided between two, would, I think, be for the worse.

2995. Would you carry the same principle into effect in every case; instead of having a single Government, do you think it would be convenient to have a double Government?
My opinion, if I were able to form any, would depend upon the nature of the case. I am inclined to think that such a double Government would be useful, wherever it was necessary to have a body of a permanent character specially conversant with a subject not generally studied by politicians in this country, while, at the same time, the general Government of the country must also have a voice.

2996. Would you introduce the system of double Government with reference to the 52 colonies of the Crown?
I am not sufficiently acquainted with the Colonial department to be able to express a positive opinion; but I should conceive that there might be great advantage from having some body analogous to the Court of Directors as a Council to assist the Colonial Minister.

2997. A Council to represent each colony?
It does not follow that there should be a separate body for each colony, any more than that there should be a separate body for each Presidency, or each Zillah, in India.

2998. Between Australia and Canada there is no connection; one permanent body would not be able to advise the Minister of the Crown on Australian and Canadian matters?
In Canada and Australia there are local representative bodies perfectly competent to exercise that antagonistic discussion, which seems to me an essential element of good government everywhere; but for India you cannot have any local body which shall produce that result.

2999. Is there not a good deal of antagonistic discussion between the Government of India and the authorities at home; are not the Government of India capable of taking their own part, and giving their reasons for their measures?
Certainly; but the discussion between the Government here and the Government there, I apprehend, is not sufficient security where there is nothing else to

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trust to; where there is no body representing the people of the country, and no body of persons *ex officio* conversant with their interests.

3000. Should you say that the Court of Directors represent the people of India?

Certainly not.

3001. Is not their position directly antagonistic to that of the people of India?

The antagonism which I contemplated was a discussion between persons who could not be supposed beforehand to be likely to be of the same opinion; discussion, by persons all of one mind, is of no use; where you have not the advantages given by a representative Government of discussion by persons of all partialities, prepossessions and interests, to secure that the subject shall be looked at in many different lights, though you cannot have a perfect substitute for this, still some substitute is better than none. If you can have a body unconnected with the general Government of the country, and containing many persons who have made that department of public affairs the business of their lives, as is the case with the Court of Directors, there is much better discussion and much better sifting of the matters committed to their charge, by having such a body in addition to the Minister of the Crown, than by having the Minister of the Crown without such a body, or the Minister of the Crown acting as Chairman of the body.

3002. Do you think that if the Court of Directors, in its present form, is to be maintained, advantage would be derived from giving a *quasi* representative character to the Court of Proprietors, so that their representatives might be more identified in feeling with the people of India?

I am not aware how the Court of Proprietors could be so constituted as to be identified with the people of India.

3003. Could you not give to the Court of Proprietors more knowledge of the affairs of India: it appears, by a Return which has been presented to the Committee, that out of 1,760 persons who vote in the election of Directors, there are but 253 persons who have ever been in the service of the Government?

I cannot foresee what would be the effect of making the circumstance of having served a certain time in India a qualification for the Court of Proprietors; but I should think it could not have a bad effect, unless by multiplying the body, and rendering the canvass more onerous than at present: the difficulty of the canvass has prevented some of the most eminent servants of the Company from seeking a place in the Court of Directors.

3004. Might not the Court of Proprietors be so extended in number, as to render a canvass impossible; and might it not be so improved in its composition, as to give the means of knowing the respective qualifications and claims of the several candidates who desired to belong to the Direction, having served in India?

It is difficult to say; there is no popular election at present, however public in its character, in which there is not a canvass; and in this case it is probable that the canvass would always continue onerous.

3005. For instance, do you think that the 399 ladies who have votes, exercise a sound discretion in the selection of the individuals, knowing their qualifications and claims?

I do not believe any portion of the Court of Proprietors exercise much discretion of that kind; I do not believe that to any great degree the election by the proprietors is determined by public grounds. I believe, however, that those who are influential among the proprietors are sufficiently before the public, and are themselves sufficiently interested in Indian affairs, not to use their influence on behalf of persons who would be considered discreditable. That is the extent to which there is now a security, and I doubt whether more would be obtained under any system, because I do not think there are the means of forming an electoral body sufficiently identified with the interests of India to afford much security for a good choice.

3006. Do you think the English and foreign Jews, who hold a large amount of stock, exercise a sound discretion in the election of Directors, with reference to the good government of India?

I have already said that I do not think the elections of the Court of Directors are made on public grounds; they are mainly the result of private influence; but those

those who possess the influence, exercise it under a sufficiently strong sense of responsibility to the public to prevent them from selecting any person very objectionable. The security at present depends rather on the kind of persons who are candidates, than on the kind who are electors. The candidates being, as a general rule, persons of Indian experience, who wish to keep up their connexion with Indian affairs, that is in itself some evidence of their not being wholly unfit for the station, inasmuch as persons who have gone through the Indian service, and retired from it, are not likely to retain a taste for Indian employment, unless they retain in some degree their fitness for it.

3007. Has the tendency of the elections in the last 20 years of the Court of Proprietors, as at present constituted, been to strengthen the connection of the Court of Directors with India, or otherwise?

Nearly all the Directors chosen since the last renewal of the Charter have been persons who have served in India; but that I attribute not to the constitution of the Court of Proprietors, but to the fact, that since the Company has ceased to be commercial, there are not the same inducements as formerly to the merchants and bankers of London either to hold stock, or to become Directors, and in consequence few such have been elected.

3008. Has not the circumstance of the Company having ceased to trade, and having ceased to transact all the business which was connected with that trade, increased the number of the Directors who take part in the consideration of the general Government of India?

Very much so; it has rendered the personal participation of the whole of the 24 Directors in the general business of India much more complete than it was before. Under the former constitution of the Company, the administration of India rested, with the exception of the Chairs, entirely with the Committee of Correspondence, composed of the nine senior Directors, the remainder of the Directors having no voice in that portion of the business of the Court; of course they had a voice in the deliberations of the Court itself; but not having been previously prepared, by examination of papers and discussion in Committee, they had not so much influence, and were, besides, occupied with other things. The Committee of Correspondence, composed of the senior Directors, and, therefore, necessarily including any members of the Court who might be superannuated, were extremely overladen with business, and made a much more cursory examination of the papers than the Committees do now. At present the Government of India being the only business of the Court, it is divided among three Committees, to all of which every Director is eligible, and the consequence is, that every Director takes a more active part than formerly in the consideration of the draft despatches that are laid before them by the Chairs.

3009. Has not one effect of that been that the Chairs have much less authority than they used to have in the Court?

I think it has.

3010. Has it not produced, whether for good or evil, a great practical revolution in the system of government; formerly the business having been conducted through the Chairs by a small body of persons who had the cognizance and general transaction of political cases; and now the 24 Directors take part in the discussions?

There is generally a great indisposition to oppose the Chairs; and they are never opposed, except where there is fair ground for a difference of opinion.

3011. Is it not the fact, that in former times, before the commencement of the present Charter Act, when the President of the Board of Control had settled any matter with the Chairs, it was practically a final settlement, and the view taken by the Court was not in fact different from theirs; but now a settlement between the Chairs and the President, by no means brings after it, as a matter of course, the acquiescence of the Court?

I am not aware whether or not there is so great a difference as the question seems to contemplate: there is certainly some difference, and there is a much more active part taken by individual Directors than formerly.

3012. Is not that, again, a great practical alteration in the system of Government?

I do not think it is a great practical alteration; it is some practical alteration.

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3013. So that we have now to consider whether it is expedient to retain a Government very different from that which existed in 1834?
I should not say very different; in some degree it is different.

3014. Does not the addition of three-fourths to a cabinet, which is the change that has been made, produce a very great change in the mode in which cases are judged of and discussed; are not cases now judged of and discussed as they would be in a popular assembly?
On great questions which are likely to lead to a difference of opinion between the Court of Directors and the Board of Control, I doubt whether there is any difference; because on questions which were interesting to the collective body of the Court, all the Directors would at any time have given their minds to the subject, and the opinion expressed would have been the opinion of the collective body: I think the difference which has been produced is in the details: it happens much more frequently now that the draft despatches submitted by the Chairs undergo alterations of details in Committees, or the Court; but these are seldom of a kind that materially alter the Government of India.

3015. Does not the influence of the Chair depend very much upon the individual Chairman?
Yes.

3016. This change goes, to a certain extent, to diminish the value of the previous communications?
There still is very great advantage in the previous communications.

3017. With regard to the active participation taken by the whole body of Directors in the transaction of the business, what is your opinion of that part of the law which requires one-fifth of the Court to go out annually?
I think it makes very little difference for either good or harm; I have no decided opinion about it.

3018. With this active part taken by those 24 gentlemen, might it not happen that, merely on account of rotation, a member connected with a department of public business, for which he was peculiarly qualified, might be obliged to go out, and the Court might be deprived of his aid in the transaction of that business?
Yes; but that happens much more seldom than might be supposed, because it is always endeavoured to conclude the business of the year within the year. Subjects are begun at such times that they shall not be under discussion at the time of the renewal of the Directors, as in the case of the Session of Parliament, except that there is no interval, as in that case.

3019. Whatever inconvenience exists in that case, your opinion is that care is taken to diminish that inconvenience?
I think so.

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned till To-morrow, One o'Clock.

Die Martis, 22° Junii 1852.

THE LORD PRIVY SEAL in the Chair.

JOHN STUART MILL, Esquire, is called in, and further examined as follows:

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3020. ARE there any circumstances in the relations between England and India which require that the machinery for the government of India should be differently constituted from that of the other dependencies of Great Britain?

I think there are very important differences; principally two. In the first place, India is a peculiar country; the state of society and civilization, the character and habits of the people, and the private and public rights established among them, are totally different from those which are known or recognised in this country; in fact the study of India must be as much a profession in itself as law or medicine. In the other dependencies of Great Britain the people are for the most part English, and whoever is fit to deal with English people here, is fit to deal with them there. But in the case of India, even if a person of the greatest knowledge of the world and the most cultivated mind were sent to be Governor-general, he would still have an apprenticeship to serve. This makes it essential that the administration of India should be carried on by men who have been trained in the subordinate offices, and have studied India as it were professionally. A second consideration, not less important is, that the public of India afford no assistance in their own government. They are not ripe for doing so by means of representative government; they are not even in a condition to make effectual appeals to the people of this country; they cannot even make their circumstances and interests and grievances known and intelligible to people so different and so unacquainted with India as the people, and even the Parliament, of this country. The discussion here of Indian subjects, when there is any, is carried on not by persons representing the people of India, but chiefly by Englishmen who have personal interests or connexions in India, generally almost as ignorant of the people and the interests of India as the English public, and having mostly other objects than the interest of the people of India in view. Since, therefore, the great security for good government—public discussion—does not exist for India, as it exists for this country and for its other dependencies, the only means of ensuring the necessary discussion and collision of opinions is provided for it within the governing body itself. The British colonies, of which the people are mostly English, and in most of which there are representative bodies composed of English people, have ample means of discussion, and ample means by which, if they think themselves aggrieved by any act of the Government, they can appeal home; and when such an appeal is made, the people of this country, although often extremely ill informed as to colonial matters, are much more capable of judging of them than they are of Indian affairs.

3021. What do you think would be the probable effect of carrying on the government of India like that of the colonies, by means of a Secretary of State for India?

I should think it would be the most complete despotism that could possibly exist in a country like this; because there would be no provision for any discussion

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cussion or deliberation, except that which might take place between the Secretary of State and his subordinates in office, whose advice and opinion he would not be bound to listen to; and who, even if he were, would not be responsible for the advice or opinion that they might give.

3022. How could it be a despotism when Parliament would have the control of the conduct of the Secretary of State?

Undoubtedly Parliament would have the control; but Parliament not having sufficient knowledge of India and its people, would exercise its control with very imperfect information; and it seems to me of the utmost importance to make provision in the constitution of the Government itself, for compelling those who have the governing power, to listen to, and take into consideration, the opinions of persons who, from their position and their previous life, have made a study of Indian subjects, and acquired experience in them.

3023. But though Parliament might be imperfectly informed, Parliament would not think it was imperfectly informed?

That would be one of the evils I should apprehend.

3024. Would it be possible for Parliament to have sufficient cognizance of the facts connected with the administration of the Secretary of State for India, to enable them to act as a check upon his administration?

It cannot be said that Parliament and publicity are no check; but I think they are a very insufficient one.

3025. Would it be possible to give such publicity as would enable them to act as a check?

It would be possible to give any degree of publicity; but it would not be possible to secure the requisite interest in the subject, or the requisite instruction.

3026. Do you think that, under such a system of Government, the continual change of policy, which would be likely to take place, arising from the change of parties, would be fatal to the Government of India?

It would be a great evil if it really happened; possibly, however, it might not happen, and the Government of India might continue to be carried on in much the same way under all parties; but there would not be the same security for this which there is at present. I conceive that there would be two great inconveniences: in ordinary cases there would be apathy and indifference on the part of Parliament and the public; the Secretary of State for India would be able to do exactly as he liked, and to omit any part of his duty if he were too indolent or too ignorant to perform it; but whenever it did happen that interest was excited in Indian questions, they would become party questions; and India would be made (which I should regard as a great calamity) a subject for discussions, of which the real object would be to effect a change in the administration of the Government of England.

3027. Why do you think that greater apathy would exist upon questions relative to the interests of India, than upon questions relating to the interests of the colonies?

Because the colonies have the means of making their grievances heard; the colonies are much more closely connected with England; there are many more English people who have interests there; and there are also in the colonies local popular bodies, which is of itself a very great check, independently of any check afforded by Parliament. If there were a possibility at present of establishing a similar check in India, by any form of local representative government, I should think the constitution of the organ of Government in England much less important; but at present the only security for the good government of India is in constituting the Government here with as little imperfection as possible.

3028. Do you think it would be possible to recognise any body in India which should be competent to express an opinion upon measures relating to that country?

I do not think that India has yet attained such a degree of civilization and improvement as to be ripe for anything like a representative system. It would certainly be possible for the Government to take natives into its counsels much more than at present; but this I think would be better done by cultivating a greater degree of intercourse between intelligent natives and the members of the Government,

Government, or the holders of public offices, rather than by forming a body of persons selected by the Government and considering them as the representatives of the people of India, who, probably for the very reason of their being selected by the Government, would not be inclined to recognise them as their representatives. *J. S. Mill, Esq.* 22d June 1857.

3029. It has been stated by some witnesses, that great advantage has resulted in India from the preliminary promulgation of proposed laws, which has had the effect of eliciting opinions from the natives, so as to enable the Government to form an opinion whether the law might be advantageously carried into effect or not; do you think that is a useful practice?

I have no doubt that it has been a very useful and indeed a necessary practice. The Court of Directors, in the instructions issued after the last renewal of the charter, pointed out that, in the absence of the security against precipitate legislation derived from public discussion by a numerous body like the Legislature of this country, it was necessary to make some other provision for deliberation and previous information; and therefore to interpose a certain delay between the first proposing and the passing of any Act, and to invite, in every way in which it could conveniently be done, suggestions and information in the meanwhile.

3030. What are the advantages of the division of the home Government of India into two distinct bodies, the Court of Directors and the Board of Control?

It affords, I think, a great additional security for discussion and consideration. By rendering the consent of two distinct authorities necessary, you, in the first place, secure discussion between those two. The initiative being given to one body and a veto to the other, and the body over which the veto can be exercised, having in reality no substantial power, except that which it derives from the force of its reasons, it is under very strong inducements to put reason on its side if it can. If the despatches which originate with the Court of Directors are not well grounded in reason, they carry no weight with the Board. The Court of Directors does not and cannot exercise any effective share in the government except in so far as it takes care to have reason on its side. Having this instrument of power and no other, it has the strongest motive to use that instrument to the utmost; and in doing so, it is a most efficient check upon the body which has the ultimate power, because that body being sure to have all subjects brought before it, with the result of the full consideration and concentrated judgment of a body which, from its constitution, has commonly that special knowledge and information which the President of the Board of Control in general has not, the President is under great inducement not to set aside the judgment of this comparatively well-informed body, unless he can give as strong or stronger reasons on the contrary side.

3031. Is it not the case, that even in addition to the ordinary forms of conference and communication between the Chairs, as they are called, and the President of the Board, if there should be any difference between them, the President has the power of consulting the other members of the Court, and frequently does so through the Chairs, and in fact has recourse to any documents which the Chairs may have it in their power to lay before him, so as to strengthen the view which they have put before the President?

The President can call upon the Chairs to produce any papers upon the subject which they may have omitted to bring before him.

3032. Is it not the case, that independently of the legal power of the President, where different communications have taken place between the President and the Chairs, they are in the habit of laying before him any additional documents which they think will strengthen the views which they have put before the President?

Yes, and of discussing all subjects on which there is any difference of opinion.

3033. Is not the Court of Directors specially interested in appointing the very ablest officials?

They are; and they exert themselves to obtain the ablest persons they can to conduct the correspondence under them. Their position gives them a very strong interest in doing this, since they can only expect that their draft despatches will be adopted by the Board of Control, if they are such as to carry the weight of reason and knowledge with them.

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3034. Would the same benefits be realized, in your opinion, if India were to be governed by the two bodies merged into one, and by endeavouring to form a single body which should unite the advantages of both, such as a Council of India, presided over by a Minister of the Crown?

I think that such a system would be far preferable to a Government merely by a Secretary of State; but that the advantages now derived from the division of the governing body into two parts, the one having the initiative and the other the ultimate control, would not be obtained under the system of a Minister and Council. In the first place, there is now not only an examination by two authorities, but successive examinations by two sets of competent subordinates. If the body were but one, there would be only one set of subordinates; and that is not a trifling consideration, but in practice a very important one. In the next place, if the Minister of the Crown were President of the co-ordinate body, whether it were called Court of Directors or Council of India, he would have, not as at present substantially a mere veto, but substantially the initiative, as the Chairman now has; and in that case the Council would not be under anything like the same responsibility, and would not exercise anything like the same power that the Court of Directors do. When the Council are obliged to consider the subject first, and to make up their minds upon it, and to write, or cause to be written, the strongest justification they can make of their opinion, the mind of this body is much more effectually applied to the subject, and a much more painstaking and conscientious decison is likely to be arrived at by them, than if they were only considered as the advisers of, or as a check upon another initiating authority. Of course, under the system suggested in the question, it cannot be meant that the power of decision should rest in the Minster and his Council jointly. The ultimate decision would rest with the Minister only, and his Council would be merely a Council. Now, when the Minister had thus both the ultimate power of decision and the initiative, it seems to me that the functions of the Council would be reduced to comparative insignificance, and there would be great danger of their becoming nominal.

3035. If the plan suggested in the last question were adopted, would not the Government of necessity cease to be a double Government, and be a single Government, consisting of combined parts, which from their nature and their functions would be liable to constant collision?

They are now liable to collision; but any prolonged conflict is provided against by giving to one of the two authorities—the Minister of the Crown—the ultimate deciding power: and I imagine that in any new system that could be proposed, this provision would be adhered to.

3036. Although there is a liability at present to come into collision, is not that collision, and are not the consequences of such collision, better guarded against by the present system than they would be by that proposed?

I conceive that under the alteration proposed, the specially instructed body would not have power enough; in the first place, because the initiative would fall habitually into the hands of the President, and consequently the members of the Council would not be under nearly such strong inducements as the Court of Directors are to form a careful opinion, and to stand up for it. In the next place, they would not be nearly so much in the public eye. The Court of Directors are at present the ostensible Government of India; they reap a very large proportion of the credit of good government, and of the discredit of bad; and it seems to me of great importance that they should still do so; because that is what places them, with no instrument in their hands but reason, under such strong inducements to employ that instrument to the utmost.

3037. In fact you consider that the present system is a very convenient fiction?

I do not think it is fairly described as a fiction, since it is acknowledged, that not only the Board of Control but the Cabinet, when of a different opinion, sometimes think it right to defer to the opinion of the Court of Directors: no doubt because they feel that the Directors are more competent to form an opinion than themselves. As the Court of Directors can have no power but what they derive from that belief, it is greatly for their interest that the belief should be justified.

3038. Is it a fiction to say that the Government of India resides in the Court of Directors?

It

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It is practically by no means a fiction, since it does not happen once in a hundred times that a despatch, prepared by the Court of Directors, undergoes alteration in principle and substance by the Board of Control. It is true that this is in a great measure to be accounted for by the constant communication kept up between the Chairs and the President; so that, unless the Chairs are anxious to have a contest with the Board, in order to place on record an important difference of opinion, they seldom send up a proposed despatch which they know is contrary to the President's opinion, and therefore will not pass. Still, however, in practice, the preparation of despatches rests substantially with the Court of Directors, and not with the Board of Control.

3039. You think it is not fairly to be called a fiction; but do you not think that the general notion which people have of their power attributes to them much greater power than they really have?

Undoubtedly the habit of speaking of the Court of Directors as the Government of India, causes the controlling power exercised over them to be very much lost sight of, and causes much less of the moral responsibility of the Government of India to rest upon the Minister of the Crown than is really his fair share. But even this has its advantages, because it brings the feeling of responsibility to bear more strongly upon those who possess the requisite knowledge, and whose examination is much more effectual than any examination that can be exercised by persons less acquainted with the subject. It therefore seems to me important that the Court should not be led to consider themselves, or be considered by the public and by the people of India, as a subordinate, but as a co-ordinate authority.

3040. Do they not, under the power they have of initiating all despatches, virtually exercise a principal part in the general administration in the Government of India?

In as far as that can be said of the home Government at all, I think they do. I think that those who deliberately consider all subjects in the first instance, recording their opinion, and who do this in such a manner, that in a great majority of cases their opinion is adopted by the controlling power, have a full share, and virtually the largest share in the administration.

3041. Do not they practically furnish the knowledge by which the Government of India is conducted?

They furnish much more than the Board of Control.

3042. Is it not the fact that the Board of Control furnish none?

The Board of Control furnish none but the knowledge which their officers have acquired by experience in the office.

3043. What means of resistance, on the part of the Court of Directors, have the Legislature provided, for preventing the Board of Control from usurping the entire power, and reducing the Court of Directors to a nullity?

The main security is, that the Board of Control cannot themselves initiate any instructions to India (except in the Secret Department, which is limited by law to matters of war and negotiation) unless by calling upon the Court to do so; it is only if the Court fail to do so within a certain time, that the Board of Control can initiate a despatch, and compel the Court to send it out; and this shows that it was the intention of the Legislature, that the Board should be a controlling rather than an originating power.

3044. Have not the Court of Directors a further power, by having a virtual veto upon the nomination of the Governor-general by the Crown?

They have; and I may say, on that subject, that I think the present mode of appointing the Governor-general, namely, by the Court of Directors ostensibly, but with the approbation of the Crown, is the only means by which the Court of Directors could obtain so much as a veto; everybody is aware that the Crown really appoints the Governor-general; but if the Crown were ostensibly to do so, if the nomination were to vest in the Crown, then, even if a veto were nominally given to the Court of Directors, they would not have a real veto. To refuse their sanction to an appointment once made, would appear to them so strong a measure, that it must be a very bad appointment indeed, much worse than is likely to happen, which they would feel called upon so to resist; whereas, by making it in legal form necessary that they should initiate the appointment, you do not

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secure to them, what I think it is not desirable that they should have, the real appointment, but you give them a real veto; you prevent the Crown from being able to force upon them any Governor-general to whom they have a decided objection. I think that a very important power.

3045. Do you think it is as important, for the maintenance of their authority, that they should have the power of recall?
I think it is proper and necessary.

3046. Are there not circumstances under which the nomination of the Governor-governor will fall to the Crown?
If the Court of Directors make no appointment within two months.

3047. Would it be desirable to place modifications of the same nature upon the power of recall; that is to say, by requiring certain notice of the intention of the Court to exercise the power?
I see no particular advantage in that; because it is not to be supposed that the Directors would seriously contemplate a recall, unless they intended to persevere in it; it is not probable that they would raise the question unless their opinion was thoroughly made up.

3048. Have you ever referred to what took place between the Government and the Court of Directors in the time of Lord Wellesley?
I have no particular recollection of the history of those transactions.

3049. Have you ever referred to it?
I have.

3050. Are you under the impression that the Court of Directors never wished to recall Lord Wellesley?
I am under the impression that they did wish, but not so strongly as to take a measure which they knew would be extremely disagreeable to the Government of the time.

3051. It was rather a strong Government, that of Mr. Pitt, at that time, was it not?
It was.

3052. Is not there a further power of resistance on the part of the Board of Control, by refusing to send out a certain despatch, and compelling the Board of Control to appeal to public opinion in open court, and forcing them by means of a mandamus in the Court of Queen's Bench?
That is only the power which anybody possesses of compelling discussion by resisting a legal authority. The Court would no doubt never think themselves justified in resorting to such an extremity, unless they had such strong conscientious objections to the thing proposed, as to outweigh the objection to refusing obedience to a lawful order.

3053. Do you recollect any instance in which that remedy has been resorted to by the Court?
I remember one instance, and I think there have been two within my recollection.

3054. In which it was successfully exercised?
In one of the cases it was successfully exercised; I am not certain about the second.

3055. Does the Court of Directors ever resist by avoiding to form a sufficient quorum to sign a despatch?
The Court have no occasion to avoid forming a quorum; because no individual can be forced to sign, even if there is quorum, unless by process of law. In one of the cases mentioned, several of the Directors were fully prepared to go to prison, rather than sign an order which they thought grossly unjust.

3056. Was that resistance successful?
It was.

3057. Have not the Directors the power of appealing to the Court of Proprietors, and producing such documents as they may think necessary for instructing the public mind, and thus communicating a knowledge of those

those measures of which they disapprove, without at the same time appealing to party prejudices, as would be the case were that appeal made to the House of Commons?

No doubt the Court of Proprietors afford means of publicity, but not greater than would be obtained by a motion for papers in the House of Commons.

3058. Would not there be this disadvantage in a motion for papers in the House of Commons, that they must act through some party, and the question would at once assume a party character?

There are usually members of the Court of Directors in the House of Commons, any one of whom can move for papers.

3059. Would it not be a great disadvantage if Indian matters were made the subject of party conflict?

It is necessary that the last resort of an appeal to Parliament should be open; but I have already remarked, that I think the security which that affords for good government is not great, because there is generally no interest in the subject, unless it can be made a party subject; and if it be made a party subject, it is in danger of being decided by party interests.

3060. Then do you consider it to be just as advantageous for the Directors to appeal to the House of Commons, as to appeal to the Court of Proprietors?

I do not think the appeal to the Court of Proprietors is of any value except as an instrument of publicity. It is plain that they might have a perfect power of publicity given to them, without appealing either to the Court of Proprietors or to Parliament.

3061. How?

They might have the liberty of printing and producing papers, and it might be in their power to lay papers before Parliament.

3062. Have they not that power at present?

Only if they are moved for.

3063. If papers were moved for in Parliament, would not a conflict most probably arise upon the subject of those papers?

It might, certainly, although papers are very often moved for with no such intention, and with no such effect.

3064. Is it in your opinion desirable that the Court of Proprietors should have the power of calling for papers under the present constitution of the Government of India?

I think anything which leads to the production of papers or to the discussion of any questionable matter, is always useful, although I do not think the discussions in the Court of Proprietors afford much advantage in the way of good government. They occur rarely, and when they do occur the matter is commonly discussed without much knowledge of the subject, and commonly from other interests than those of the people of India.

3065. Have the Court of Proprietors at the present moment any interest in the prosperity of the people of India further than as it may be connected with their dividends?

None whatever.

3066. Is not it desirable that they should have the power to call in question the actions of the Court of Directors and of the Government of India?

The Court of Proprietors is a mere public meeting, at which persons of a particular class are admitted to speak and vote, and I think any public discussion on a public subject has the chance of doing more good than harm.

3067. Would it, in your opinion, be desirable that the papers and correspondence of the Secret Committee should be laid before the Court of Proprietors?

There are many transactions of Government, and particularly those of war and diplomacy (the peculiar functions of the Secret Committee), which until the transactions are completed never are, and generally cannot be, consistently with the public interest, laid before the public.

3068. That is an exception to the general benefit which you propose to be derived from public discussion?

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Yes; but in European matters it is usual to give publicity even to this class of transactions after the emergency has ceased; and this is equally advantageous in Indian affairs. In fact it is usually done; for it hardly ever happens that the papers relating to Indian wars and treaties are not published almost as soon as they conveniently can be.

3069. That is, through the medium of Parliament?
Yes, generally.

3070. When those secret papers are ultimately laid before the Court of Directors, are they not laid *in extenso?*
Sometimes.

3071. Not always?
Not always.

3072. Sometimes important papers relating to a transaction are withheld altogether, are they not?
Sometimes.

3073. What advantage is derived from the power of the Court of Proprietors to call for any papers?
It sometimes causes papers to be made public sooner than they otherwise would be, or which, perhaps, might not have been made public at all; but the papers might have been called for by Parliament, if they had not been called for by the Court of Proprietors.

3074. Does not it give to the Court of Directors the power of giving to the world any papers that they may wish to be circulated?
No doubt it does.

3075. In that way is it not very useful to the Court of Directors, whenever they wish to make an appeal to public opinion?
I think it might be useful. It certainly affords them the means of doing so without the imputation of wishing to make a party opposition to the Government.

3076. In point of fact, is not it their great object in general to avoid the production of such papers?
I think there is no unwilligness whatever on their part to produce papers.

3077. Do not the Court of Directors generally try to check such a motion on the part of the Court of Proprietors?
Not at all, as far as I have observed, unless the papers relate to transactions still under consideration. In that case, as in similar cases in Parliament, it is often thought desirable that the papers should not be produced till the final decision of the public authorities has been come to.

3078. That is in all pending negotiations?
There is often an indisposition to give papers as long as the subject is under consideration; but when a decision has been passed, and the transaction completed, I am not aware that there is ever any objection made to lay the papers before the Proprietors, if the Proprietors desire to have them.

3079. What is the usual number of persons attending a Court of Proprietors?
The quarterly courts are commonly not very numerously attended, being mostly for routine business, unless notice has been given of some motion which excites general interest; but special courts I have known very numerously attended.

3080. When you say "very numerously," what number of persons do you mean?
I do not know that I ever counted the number, but I think I must have seen as many as 200 or more.

3081. But usually it is a very small number?
Perhaps at quarterly courts there may not be more than 50 or 60; and sometimes a discussion has been kept up when there were (exclusive of the Directors) not more than eight or ten Proprietors in the room.

3082. Are those discussions generally conducted by persons who have an Indian reputation, and who have been connected with the service in India, or

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by gentlemen who appear to have bought their qualification for the purpose of giving them an opportunity of making speeches and having them reported?
There are marked instances of both.

3083. Is not the latter the more common case?
I should say, I think, that when motions have been brought forward hostile to the proceedings of the Government of India, they have been oftener by persons who had been previously connected with India, than by persons whose connection with India Stock may be supposed to have been formed for that purpose.

3084. Assuming that two such bodies as the Court of Directors and the Board of Control ought to exist, is it, in your opinion, desirable that the patronage of India should reside in the body which is inferior in authority?
As between the two, it is in the Court of Directors, the weaker body, that I think the patronage should reside, for the reasons which I have already given. It seems to me very important, and at the same time difficult, that a body, every act of whom connected with the Government of India may be overruled, should nevertheless feel themselves, and be felt by others, to have a very important part in the Government, and a very important share of the responsibility of good or bad government. I do not see how they could keep their position, or be considered as the Government of India at all, if the patronage of India, such as it is, that is, the appointment of youths to rise through the lower to the higher offices, were taken away from them to be given to the other authority. If the authority which had the patronage were that which gives the final orders, the Board of Control would be considered as the Government, and the Court of Directors would have no influence at all.

3085. Would there not also be a danger in that case that the appointments would have a political character, which you consider it so extremely desirable to avoid?
That is also a very strong objection to vesting the patronage in the Minister of the Crown.

3086. If the patronage were withdrawn from the Court, in what way should it be disposed of, in your opinion?
I think in that case the only proper system, and one which I should myself consider as intrinsically the best, would be to bestow it by public competition; by *concours*, as some offices are given in France; to give it to the best qualified among all persons of requisite age and education who might compete for it.

3087. By public examination?
By public examination.

3088. By the sale of commissions, or without sale?
Certainly not by sale.

3089. If you had such competition as that, you could not have only one Board of Examiners for so many different classes of offices, amounting sometimes to 400 or 500 to be given in one year; but it would be necessary that you should have different Boards of Examiners; and in that way persons rejected by one Board might be admitted by another. Would there not be great danger of not getting the best men by that process?
No doubt such a Board might make mistakes; but probably not more than are made, for instance, in the classification of candidates for honours at the Universities, which is generally supposed to be conducted very fairly.

3090. But there it is done by a single Board; but you could not bring 400 or 500 gentlemen before the same Board, and bring them all into one place?
Not at one time; but I see no impossibility in even a larger number being examined by the same Board in the course of a year.

3091. This is not a change which you suggest, but you think it would be the best system if any change were made?
If there were a change I think that would be the best change, and I think it desirable in itself if it could be done without interfering with the position of the Court of Directors, or of some body similar to them, as a substantive part of the Indian Government.

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3092. Do you think it would be desirable to give any portion of the existing patronage to be competed for in the way you have described?
I think the more the better.

3093. Supposing it to be considered best to keep the patronage in the hands of the Court of Directors, do you think it would be desirable to set off any portion of that patronage to be competed for in the way you have described?
I am not prepared to give a decided opinion. There would be advantages, perhaps preponderating ones, in such an arrangement, provided the Court of Directors retained sufficient patronage to make them be still considered substantially the Government of India.

3094. When you speak of competition, do you mean a *bonâ fide* public competition open to all the world, or would you require any particular qualifications or previous course of education on the part of the candidates?
I would admit persons to compete in whatever manner they had been educated, and at whatever place.

3095. And in whatever condition of life they might be?
And in whatever condition of life.

3096. By whom and in what manner is it desirable, in your opinion, that the Governor-general should be appointed?
I think the present mode unobjectionable. I think that the Governor-general should be nominated, as he is, by the Crown, and not by the Court of Directors, but subject to a substantial negative voice on their part. It is a great security against jobbing in India, that appointments to office are not made by the same persons who appoint the candidates. They are made by a great officer who has no previous connexion, or a very slight one, with the service, and is scarcely under any private motive to favour individuals; and I believe that in consequence the appointments are generally made with a remarkable degree of integrity and purity.

3097. Would you think it inexpedient to appoint the Lieutenant-governors of Bombay and Madras from the civil service; and would you consider it more expedient that they should continue to be appointed by the Crown in the same manner in which you think it desirable that the Governor-general should be appointed?
That is part of the question what should be the constitution of the subordinate governments. There are at present two systems of subordinate government on trial in India: the old system of a Governor in Council at each Presidency, and the system now on trial at Agra of a Lieutenant-governor. There is hardly experience yet to judge which of those systems ought to be finally adopted.

3098. But as long as you continued to leave a considerable amount of patronage at the disposal of those Governments at the different Presidencies, do you think it would be expedient to select the Governors out of the civil service of the Company?
I think they should be selected by the Crown as long as the present Governments of Bombay and Madras are continued. It does not follow that civil or military servants of the Company may not be appointed; in fact, a large proportion of the Governors of Madras and Bombay have been servants of the Company, though appointed by the Crown, and they have been some of the very best.

3099. Are there any special reasons for maintaining an exclusive body, such as the civil service of India, from whom all the higher offices in the administration of the Government, except the heads of the different Governments must be selected?
What is to be said in favour of an exclusive service, is the necessity of special professional training: the necessity that those appointed to higher situations should have served in the lower, and should have risen by degrees. In fact, there is no other mode of training properly qualified officers. To take a person fresh from Europe, and appoint him to one of the higher situations, would be as objectionable as taking a person from the army, or from a merchant's counting-house, and making him at once a Judge of the Court of Queen's Bench.

3100. Do you think that civil offices should be thrown open to Europeans not in the regular service; that is, to uncovenanted servants?

As a general rule, I think not; Europeans not in the regular service can hardly be competently qualified. The maintenance of a sort of professional body called the Civil Service, is recommended by the necessity of a training in the subordinate offices, and if persons are often appointed who have not gone through that training, the object is sacrificed. In fact, the appointment of Europeans not in the regular service, unless quite exceptional, would be tantamount to giving up the principle of sending out young men as candidates, instead of sending persons out to fill particular offices.

3101. Do you happen to be acquainted with the services of the late Mr. Greenlaw, who was an uncovenanted servant, and who died in the year 1844?

I know his name, but I am not particularly acquainted with his services. He held an office to which uncovenanted servants have not usually been appointed.

3102. Are you aware that he was a man of very great ability, and of very eminent public service?

I believe he was.

3103. To what grade in the service can uncovenanted servants rise?

I am not aware how much of the restriction upon their employment is the effect of law, and how much only of practice, nor am I aware how far the exclusion in practice extends, especially as it has of late been in many instances relaxed; but generally speaking, the European uncovenanted servants are not eligible to anything beyond what would be here considered as clerkships, not to offices of importance and authority.

3104. Not to judgeships?

Certainly not; the natives are very largely eligible to judicial offices.

3105. Do you think that the indiscriminate admission of uncovenanted Europeans to civil appointments would interfere very much with the employment of the natives?

Very much.

3106. Would it not be liable to this further objection, that the Governor-general would have the selection, as well as the promotion of Europeans in office?

I presume that if uncovenanted servants were appointed at first to inferior situations, they would usually be in the first instance selected by heads of offices, rather than by the Governor-general.

3107. Have you ever considered the expediency of filling the subordinate offices in the Foreign Department, with trustworthy Europeans?

I presume clerkships are meant; undoubtedly it is of very great importance that the officers so employed should be trustworthy. I believe there is no restriction on the employment either of Europeans, half-caste, or natives to those offices; their qualifications depend upon the care taken by heads of offices in selecting them.

3108. Was it not necessary on one occasion to make almost a clearance of the persons employed?

I have no such instance in my recollection, but I cannot say that it was not so.

3109. Are high civil offices thrown open to Europeans in the military service?

Many high offices are so; I think the distinction which is made is a very just one; the offices to which military servants are not, except in very rare cases, appointed, are those connected with the administration of the existing somewhat elaborate system of Regulations, for which a person is incompetent, unless he has in the subordinate offices acquired a technical and precise knowledge of the system. But in all offices which do not require this, military men are now largely employed; they are very much employed in the Political, that is, the Diplomatic Department, and also in the civil administration of countries which have not been brought regularly under our laws; and when a territory is newly acquired, and it is necessary rather to ascertain the existing state of the country, and improvise

rules for its temporary management, or to frame a system for the future administration of such countries, than to administer a previously existing system; then military men of known ability are very commonly selected, as is the case at present in the Punjaub, where the President of the Board of Administration, Sir Henry Laurence, is a military man, and as was the case with Sir Thomas Munro, and many others. Very large use is thus made of military men with talents for civil administration; I have known instances of their being even made Collectors in the Regulation provinces; but those cases are rare, and I believe the motive to them was, that there were not at the time a sufficient number of civil servants in the Bombay Presidency. At that time Sir Henry Pottinger, Major Barnewall, and Colonel Robertson were made Collectors. Generally speaking, the situations to which military men are not appointed, are those which require a previously acquired special knowledge of the existing Regulations, and the existing modes of administration.

3110. Would you admit the natives of India to the covenanted civil service?
I think it of the greatest importance to admit the natives to all situations for which they are fit; and as they are constantly becoming fit for higher situations, I think that they should be admitted to them; but it would probably be better to do this without appointing them to the regular service. The covenanted service, from its constitution, is a service of gradual rise. A member of that service is not appointed to a particular situation to remain in it during his whole period of service, but looks for promotion after a certain time, and hopes to rise to the highest appointments; therefore, as long as the natives are not considered fit for the highest appointments, it would be hardly desirable to admit them to the regular covenanted service, because, if their promotion stopped short while that of others went on, it would be more invidious than keeping them out altogether. It seems preferable that the covenanted service should not be considered as having an exclusive right to appointments. If a native, being qualified in point of integrity, and having, as many of them have, a previous knowledge of that which a European has to learn, is fit for one of the higher appointments, let him have it without going through the covenanted service.

3111. Is not a native rendered eligible for any appointment under the last Charter Act?
The last Charter Act took away all legal disabilities; but there is a practical exclusion, and so there must be, until the natives are very much improved in character.

3112. But legally a native of India is eligible for any appointment?
He is.

3113. He is not excluded because he is a native of India, but he is excluded because he has not passed through Haileybury?
That would exclude him from the covenanted civil service.

3114. Do you think that the natives of India are admitted to as large a share in the civil government of the country as they ought in their present state of education and knowledge to possess?
There is a great and growing desire to admit them to all offices for which they are considered sufficiently qualified in point of trustworthiness. Hitherto they have not been admitted to any situations in which there is not a controlling European authority over them; but there is hardly any situation, admitting of that control, to which they are not now eligible; or if there be any such, there is a constant tendency to open such situations to them. They have now, especially in the Bengal and Agra provinces, almost the whole of the administration of justice in the first instance, subject to appeal to Europeans. They are also largely employed as deputy collectors, that is, in the branch of the Government, on which the prosperity of the country depends more than on any other; and those situations are sought for by natives of the highest rank and connexions. There was a remarkable proof of this some years ago in the North West Provinces. When the Nawab of Rampoor died, who was the descendant of Fyzoolla Khan, the chief who ruled over the portion left in existence of the Rohilla power, which was crushed by Warren Hastings, when this Nawab died, leaving no direct heirs, the collateral, who was next in succession, was a deputy collector in our provinces, and two other near relations of the deceased Nawab happened to be deputy collectors

lectors also. The new Nawab went from being a deputy collector under our Government, to succeed to his own principality, and he immediately commenced introducing the improvements which he had learned under our system.

3115. Have those native officers of the Government Europeans placed under them?

As deputy collectors they have no Europeans under them as subordinate officers, but only natives.

3116. If the natives of India were to occupy a very large portion of the higher civil and military appointments of the country, do you suppose that we should continue to maintain the dependence of India upon this country?

If the natives were allowed to wield the military force of India, I think it would be impossible to maintain British ascendency there; but I think it would be perfectly possible to open to them a very large share of the civil government without its having any such effect.

3117. Without having any European supervision?

I do not think you could make a native Governor-general, but I think natives might in time be appointed to many of the higher administrative offices.

3118. Do you think they might be members of Council?

Not, I should think, at present; but in proportion as the natives become trustworthy and qualified for high office, it seems to me not only allowable, but a duty to appoint them to it.

3119. Do you think that in those circumstances the dependence of India upon this country could be maintained?

I think it might, by judicious management, be made to continue till the time arises when the natives shall be qualified to carry on the same system of Government without our assistance.

3120. Would you make any change in the functions of the Governor-general, with a view of relieving him from any portion of his duties?

I would relieve him from all details; certainly from the government of Bengal. It appears to me that the proper function of the Governor-general is rather to superintend the Government of India in all its departments than to carry on any portion of it in detail. I would give him only the external relations of India, and the business of legislation, along with a general power of receiving appeals from the subordinate Governments, and of interfering, whenever necessary, in the higher departments of their administration, with such portion of the higher patronage as it may be desirable for him to possess.

3121. Would you establish a separate government for Bengal, or would you put it on the same footing as that of the North West Provinces, leaving the Lieutenant-governor in the nomination of the Governor-general?

It is difficult to give a positive opinion at present. If I were to recommend either plan, it would be the Agra system, which works extremely well.

3122. Is not there this reason for the Agra system having worked very well, that during the portion of it which we had immediately under our eye, namely, the latter portion since the year 1844, it has been administered by a man of acknowledged superior ability and activity, Mr. Thomason?

It is more particularly during the time of Mr. Thomason that it has been administered with such eminent success; and the expediency of continuing the system depends upon the possibility, as may be shown by experience, of providing a succession of such men. Unless this can be provided, I think it would be desirable that all the subordinate Governments should have Councils.

3123. If the Lieutenant-governor of Agra were selected on the same grounds on which the members of Council are selected, would there not be very great danger of the Government not being equally well conducted?

The members of Council are selected from the same class of persons as the Lieutenant-governors.

3124. When Mr. Thomason was appointed Governor, was not he taken quite out of his turn, and was he not a much younger man than those who would be named members of Council?

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He was; no doubt, because there was nobody senior to him who was thought so well qualified.

3125. No one would have been named a member of Council so young as Mr. Thomason?

Probably not.

3126. Do you think it expedient to assimilate the Governments of Bombay and Madras to that of Agra?

Either that, or to assimilate the Government of Agra to them.

3127. Do you think it desirable that the Governor-general should be attended by his Council when he removes from Calcutta?

If the practice which has existed for some years were to continue, that the Governor-general should be a much larger portion of time absent from Calcutta than present there, I think decidedly the Council ought to go with him; and in that case it would become a serious question whether the seat of Government should not be transferred to the interior. If the absence of the Governor-general from Calcutta were only to be occasional, I see no reason why the present system should not continue.

3128. Do not you think there would be great advantage in sending out Governors-general very much younger than they have usually been—men who might be expected to remain 15 or 20 years in the country?

It is to my mind doubtful. One of the advantages of the present mode of appointing the Governor-general is that he takes out with him the latest English ideas and sentiments. He is under the influence of the most recent, which in politics are generally the best opinions.

3129. Would he not have the same, if he went out at thirty instead of at fifty?

He would; but if he remained a longer time, he would perhaps not retain the advantage.

3130. If he remained a longer time, would he not have the advantage probably of acquiring the language, and the means of communicating personally with individual natives; and would he not, if he were successful in his administration, acquire very great weight and influence throughout India, particularly with the native states?

I think he has all the influence now with the native states that he thinks fit to exercise; I think he can do anything he pleases with them.

3131. Might he not possibly obtain more influence than would be desirable?

His permanent interests would always be in this country; I am not contemplating the case of his being able to usurp an independent Government there, certainly; but I do not think that danger much to be apprehended.

3132. Not if he were to remain there a great number of years, and thereby very much to increase his influence?

I should think the danger not great of a European, who might at any time be recalled, acquiring a degree of influence over the army and the natives, which would enable him to set up an independent government.

3133. Is not that, to a certain degree, the case in all countries similarly situated?

I am not aware of any parallel instance.

3134. Does not his influence, in point of fact, mainly depend upon the great power of the country which he is known to represent?

He is considered the representative of the irresistible English power.

3135. Would you still maintain the Legislative Member of Council, and if you maintained him, would you assign to him the same duties?

It seems to me very important to maintain that office, that there may be at least one person to devote himself specially to so important a part of the business of government as Legislation.

3136. Do you think there would be any advantage in having for administrative purposes, a fifth member of Council sent from England, holding such a position as an Under Secretary of State, and who should remain there for about as long as the Governor-general himself remains?

I see

I see no necessity for such an officer, in addition to the Governor-general; the appointment of the Governor-general is intended to contribute European ideas to the Government, and the ordinary members of Council contribute Indian ideas; if the Governor-general is properly appointed, I do not see any use in sending out another officer for administrative purposes.

3137. Is it not the practice for the new Governor-general, when he goes out, to take out with him a private secretary, who may be of very great assistance to the Governor-general in the mere details of his office?

Sometimes it is; sometimes the private secretary is elected in India.

3138. Would you think it desirable to add to the Council of India civil servants from Madras and Bombay?

That would depend upon the nature of the functions assigned to the Supreme Government; if the Governor-general in Council were to exercise a general superintendence over all the Presidencies, without conducting the administration of any; if he were regarded as a supreme authority, to be referred to in cases of difficulty who should have the power of interfering in the affairs of the subordinate Governments, and should receive general reports of their proceedings, but should not be necessarily a part of the ordinary government of India, except as to legislation and great political transactions; in that case I think it would be important that all the Presidencies should be represented in the Supreme Council; that there should be a member from Madras, and another from Bombay, as well as from Bengal and Agra. For the purposes merely of legislation, I am not sure that there is any necessity for this addition to the number of the Council. On any enactments which relate particularly to Madras and Bombay, it is usual for a reference first to be made to the Madras and Bombay Governments; if indeed the whole proposition does not originate with them, by a draft Act being sent up by them, as it often is, for the approval of the Council.

3139. Is it necessary that the Government of India should have some local knowledge in the decision of questions of pecuniary outlay relating to the subordinate Presidencies?

It is necessary, no doubt, that they should have local knowledge; but that knowledge should be supplied to them by the Report sent by the local Governments, or elicited by the inquiries which the Supreme Government has power to make. All that is necessary as a qualification for the members of Council, is the habit of considering questions of a similar kind.

3140. Would not it be desirable that the Council itself should be inspired by some local interest, to enable it to give full weight to the several reasons and arguments sent up from the subordinate Presidencies?

That depends upon the degree to which the interference of the general Council at Calcutta extends. If Bombay and Madras continue to have local Governments which exercise a considerable amount of power, and the members of which deliberate in common, recording their opinions on the administration of their respective Presidencies, it does not seem to me necessary that there should be members from Madras and Bombay to advise the Supreme Council; but if there were merely lieutenant-governors at Madras or Bombay, it would be necessary.

3141. Are you aware that no sum beyond 5,000 rupees can be expended by the local Governments without the consent of the Government of India, and that, moreover, not even a shifting and a change in the salaries of a Board can take place which involves an increase of salary to any one of the members, though the sum upon the whole should not exceed for the Board the sum which was before paid?

I am not prepared to say, not having considered the subject, whether those restrictions are carried too far. Their object is partly to preserve uniformity of system as to salaries and establishments throughout India, in order that one portion of the service may not have reason to complain that others are treated better than themselves; and partly for the sake of the general finances of India; since the duty of keeping the expenses within the means rests with the authority which controls the affairs of all India, and not with any sectional department.

3142. Do you think it would be conducive to the general public service, if the

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Court of Directors were to make this alteration (which they might do of their own authority) as regards the composition of the Council, namely, always to have in the Council a military member, and another member who had been engaged in the Judicial Department, and another who had been engaged in the Revenue Department; and in making provisional appointments, to make the succession provisional dependent upon the coming away, or upon the death of the member whom they particularly wished to replace by the person to whom the provisional appointment was given; so that a revenue member would succeed a revenue member, and a military member would succeed a military member; and the Council would always represent those three great departments?

The point would be well worth consideration; but it must be remembered that many members of the service had both revenue and judicial experience. In fact, as a general rule, almost all persons who rise to be members of Council have in some degree combined both those functions.

3143. Must not considerable public inconvenience be caused by this state of things which once happened, that the military member of the Council died, and he was succeeded by a gentleman taken from the judicial department who had a provisional appointment, and the Council was left without a military member, while it had two who were acquainted with law?

I think the suggestion involved in the question has much to recommend it; but I am not prepared to give a positive opinion.

3144. Must it not have been so originally, because formerly the members of Council consisted of the heads of departments?

That was according to the first constitution of the Council, when it was much more numerous.

3145. Was not it at that time a Council consisting of the heads of departments, and were not they in the Council only because they were the heads of departments?

I believe it was so, but only under a very ancient constitution of the Council; certainly not since the time of Warren Hastings.

3146. Would you think it desirable to re-establish the Law Commission?

I would. I think it of great importance, not only to have an officer forming part of the Government whose business it should be to attend to legislation *pro hâc vice*, but also that what the Legislature certainly intended in the last Charter Act should not be left uncompleted. The intention of the Legislature in appointing the Law Commission was, that the whole law of India and the constitution of the courts of justice should be deliberately considered, and, as far as necessary, remodelled; that great improvements should be made in the procedure of the courts, and that the substantive laws should be consolidated and reduced to a code. This has been in a very small degree performed as yet, because there has not, I think, been sufficient importance attached to it by any of the authorities. I think it very desirable that the subject should be revived.

3147. The home Government at this moment exercise an absolute control over the Government in India. Within what limits do you think that control should be exercised?

There are very few acts of the Government of India which it is possible for the authorities here to set aside when they are once done. Some very important things they can do: they can put a stop to pecuniary jobbing when they detect it; they can cancel improper appointments, and control salaries and establishments; and they can, and often do, redress the grievances of individuals. But in most of the political measures of a general character, they have very little power of interfering with effect or advantage, after the thing is done. They have, however, a great power of making useful comments, which may serve as instructions for subsequent cases of the same kind; and it seems to me the greatest good that the home authorities can do is to comment freely on the proceedings of the local authorities, to criticise them well, and lay down general principles for the guidance of the Government on subsequent occasions.

3148. Do they exercise that function at present as frequently and as successfully as they have done heretofore?

I think the defect, perhaps a natural one in a Government constituted like that

that of India (and it is a defect of most Governments), is that there is an aversion to lay down any principle that goes beyond the particular occasion. Governments are almost always disinclined to commit themselves to opinions, except on a specific point, and as narrow a one as possible; but when an opinion is given, even confined to a specific point, and reasons are assigned for it, they necessarily involve some principle, and that principle, whether expressly stated or involved by implication in the decision, must serve as some guidance for future occasions.

3149. Do you think that the home Government are more disinclined to laying down general principles than they used to be?

I think, perhaps, they are; I think there is less disposition to lay down general principles than there was formerly, perhaps in consequence of the greater interest now taken by individual members of the Court in the proceedings, and the greater application of their minds to them than formerly; for that very reason, there is a greater number of objections, and it is more difficult to frame any statement of principles that shall command a majority.

3150. Are there any further improvements in the constitution of the legislative and administrative body at Calcutta which you can suggest?

I am not prepared to make any other suggestions.

3151. Do you see any difficulties likely to accrue from the unlicensed liberty of the press?

I think both the dangers and the advantages of the free press in India have been very much overrated: that the dangers were overrated is proved by the fact; it was anticipated by many people, that if full license were allowed to the press, it would drive us out of India altogether.

3152. Do not you believe that there is this difference in the character of the Indian press, as compared with the press of this country, that whereas in this country the tone of the press is decidedly superior to that of ordinary conversation on the subjects of which it treats, in India it is the exact reverse of that; and that if any one were to form an opinion of the general state and tone of European society from the comments made by the Indian press, he would form a very unfair estimate of the general character of European society in the country?

I cannot speak from much actual knowledge of the Indian press; my impression certainly is, that the English newspapers in India are of very little use to good government, except in promoting inquiry, and drawing the attention of the Government to facts which they might have overlooked. From the little knowledge I have of the Indian newspaper press, I should say that its comments are seldom of any value.

3153. Is not the style such as does not prevail in good society; would not it give to those who read habitually the leading articles in those papers an impression that the tone of society is very inferior to what it is?

I am not sufficiently acquainted with the Indian press to be able to answer the question.

3154. Are you aware that in point of fact, the tone of society in India is as good as it is in this country?

I know nothing to the contrary.

3155. You said that not only were the dangers that were expected to accrue from the establishment of a free press in India exaggerated, but also that the expected advantages were exaggerated. Is that your opinion?

It is. As long as the great mass of the people of India have very little access to the press, it is in danger of being an organ exclusively of individual interests. The English newspaper press in India is the organ only of the English society, and chiefly of the part of it unconnected with the Government. It has little to do with the natives, or with the great interests of India.

3156. Does not the Government of India labour under this particular disadvantage, that they have no means of defence against unworthy imputations which the press throws out, not being represented in the press?

Certainly. It is the practice of the Indian authorities both in India and in England to look on while their proceedings are the subject of unmeasured

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obloquy by the newspapers and in public discussions, without taking any means of getting a correct statement made of their measures, and of the grounds upon which they have been adopted.

3157. Is there not this difference in India as compared with England, that whereas in England, if an attack is made upon the Government, there is a Government paper that undertakes to rebut it; in India there is no such opportunity of stating the truth?

I think the same observation applies to attacks upon the Indian administration in this country; it is very seldom that any portion of the press takes up the cause of the Indian Government.

3158. Do you not think, with reference to the Court of Proprietors, that it might be some advantage if it was necessary that a quorum should be present previously to allowing any public discussion to go on, namely, that there should be, say 40 persons present, instead of having only five, as is the case sometimes now; would it not put some restriction upon their meetings?

I have not much considered what would be the effect of such a regulation; but I apprehend that when it is important that a discussion should take place, it would seldom be difficult to obtain as many as 40, or some rather smaller number to be present.

3159. In the course of your examination yesterday you spoke of it as a merit of the Government of India, that it was very much a Government of record, and that everything that was done was to be found upon paper. Have you ever heard it objected that that system of record and putting everything upon paper at length, is carried to an extent that is practically inconvenient and cumbersome?

It is only cumbersome in the sense of making a very great mass of records; but the system of indexing is so perfect that it is easy to refer to everything.

3160. Is it not the fact that it does not necessarily increase the quantity of writing; but it causes all that is written to be sent home?

Indian functionaries are obliged to write so quick, that they generally write at great length.

3161. Does not it entail a very large staff of clerks and manual assistants?

No doubt it must cause a considerable increase in the establishments, but the expense is amply compensated by the advantage.

3162. Are you acquainted with the manner in which the business is conducted at the Government offices in this country?

I have no practical acquaintance with it.

3163. Do you believe that the number of hands compared with the amount of business transacted, and consequently the expense of conducting the business, is much greater in proportion, in the Indian offices, than it is in the offices of the Crown?

I am unable to judge. But as the natives in India are paid at a much lower rate than Europeans in England, the number of hands may be much greater without causing greater expense.

3164. Must there not of necessity be a great deal more writing, in consequence of the double Government, and the necessity of keeping a reserved copy in case of any accident happening to the other?

Certainly.

3165. Has not the direction given about the year 1829 or 1830, that every gentleman who wrote a letter should write an abstract of it in a book, failed of producing any effect in diminishing the size of the letters?

It has made very little, if any, difference.

3166. Is not the present system very nearly identical with that of the Foreign Office in this country, or, at least, ought it not to be so, according to the order given?

I am not acquainted with the system of the Foreign Office.

3167. Is it not the practice in the Indian correspondence to collect discussions upon a number of subjects into one letter?

The

The system of separate letters has been much more resorted to in the last 20 years, in consequence of orders sent out when Lord Ellenborough was President of the Board; it has, however, been prescribed to the Governments of India, that they should, in addition to separate letters on subjects of sufficient importance to require them, also write quarterly letters, reporting miscellaneous subjects on which there have been no separate reports, because it was found that previous to that time, many subjects went unreported altogether; and the only way to insure a report of them was, by requiring that there should be letters written which should embrace everything not separately reported.

3168. Has the effect of that rule been that letters which deal with multifarious business are the exceptions, and that letters on separate business are the rule?

There is a much greater number of letters on separate subjects, than of miscellaneous letters; but the miscellaneous letters often extend to a greater number of paragraphs.

3169. Is it your opinion that the education adopted in this country, for the civil servants of the Indian Government, is the best that could be adopted?

I have great doubts of the necessity or expediency of an exclusive system of education for the civil service. I should be much more inclined to fix a standard of qualification, and admit all persons to receive appointments, if upon examination they are found to come up to that standard, placing the standard high, but allowing them to acquire the knowledge in any way and at any place.

3170. You are not inclined to think that it should be a necessary preliminary that the candidates should have been educated at Haileybury?

I am inclined to think the contrary.

3171. Would there be the same facilities of acquiring the requisite knowledge at other places, which there are at Haileybury?

If qualifications were required which could be obtained best at Haileybury, there would still be sufficient inducements to seek them there; but I would not make it compulsory. I am not aware of anything necessary for the candidates that can be learned nowhere except at Haileybury.

3172. Does not Haileybury afford particular facilities for obtaining the necessary qualifications?

It affords facilities, but they are so costly that it would be possible to obtain them at less expense elsewhere. I speak with deference to the opinions of persons who know more of Haileybury than I do; but my opinion is decidedly against, in any case, requiring as a qualification for employment that the person should have acquired his knowledge at some particular place or in some particular way. I would raise the standard of acquirements as high as possible; but having done that, I would admit a person who possessed the knowledge, in whatever manner he had acquired it.

3173. Would your observation equally apply to the necessity of military education at Addiscombe, or would you think that, in the case of military officers, it would be desirable still to continue that system?

As it is necessary to have a special professional education for military purposes, it has been thought necessary everywhere to have institutions for the purpose; and some of the necessary professional qualifications perhaps cannot be acquired except by something like a college. But I would allow a person to acquire it at any institution at which it can be acquired; for instance, at Sandhurst, and at Woolwich.

3174. All that you would require is, that there should be a certain degree of excellence to which they should come up, leaving the parties examined to have had their preliminary education where they may deem it expedient?

Certainly.

3175. Are you of opinion that the education acquired at Addiscombe is of a very superior kind?

I have every reason to think so.

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3176. Do you consider that the acquaintances formed in consequence of persons educated for India belonging to the same college are advantageous, by affording facilities of communication in carrying on their duties in after life?

It does not at all follow that they are placed in contact with one another afterwards; if they are, it is accidental, and there is the counterbalancing disadvantage that they begin too soon to associate exclusively with one another.

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned till Saturday next, One o'clock.

Die Sabbati, 26° Junii 1852.

THE LORD PRIVY SEAL in the Chair.

DAVID HILL, Esquire, is called in, and examined as follows:

3177. HAVE you been employed at the India House?
I have, for a great many years.

3178. In what capacity?
In the Judicial Department.

3179. Will you have the goodness to state what are your special duties?
The examination of the correspondence of the department, embracing the judicial and legislative administration of India, and the preparation of reports for the Court of Directors, in order that they may pass their opinion upon the proceedings.

3180. Does the correspondence upon those subjects come immediately to you, or does it go to the Court of Directors?
Correspondence in that department, on its being received from India, is immediately placed in my hands for the purpose of examination. Subjects which require to be taken up immediately, are taken out of their turn. The rest are disposed of as speedily as possible. The Committee are aware that the Government of India is quite a Government of record. Everything which is done is put upon record, and everything which is recorded is reported.

3181. When that correspondence is submitted to you, do you express an opinion upon it, or is it simply submitted to the opinion of the Board of Directors?
In the ordinary course of business there is not generally room for two opinions. Therefore, the officer who examines the correspondence, deals with it as he presumes his superiors would do, subject to be corrected when it may come under their review.

3182. Is all the judicial business that is transacted in India sent home to the Court of Directors?
The great bulk of the judicial business does not come before the Government at all; that is to say, the trials of cases, either civil or criminal. They are not reported otherwise than numerically: how many cases have been disposed of. The trials themselves do not come under the notice of the Government. The conduct of judicial officers, native and European; questions relating to the administration of the affairs of a district; police; the revision of the laws; defects as they arise; all these come before the Government.

3183. In the course of your duties have the proceedings upon Mr. Macaulay's penal code come under your notice?
Yes.

3184. Will you have the goodness to state to the Committee what are the steps taken in such cases?
The Law Commission was formed under the provisions of the Act of Parliament in the year 1835, the year after the last Act passed; and, shortly after it

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was formed, it received instructions from the Government that its labours were first to be directed to the preparation of a criminal code. This was done on the recommendation of Mr. Macaulay, who at that time seemed to expect that it would not be a work of long duration, and that it would be followed by the preparation of the civil code and a code of procedure, which he supposed would take still less time; in short, that the whole work would be very easily accomplished. Those instructions were given in the middle of the year 1835. Before the end of 1837 the Law Commission laid before the Govrenment of India a penal code, not a criminal code; that is, not a code providing for the administration of the criminal law, but merely a code accurately and systematically defining and classing offences, and affixing adequate penalties to them. They laid this before the Government before the end of 1837. Lord Auckland, the Governor-general, was absent from the seat of Government in the North Western Provinces. He recorded his opinion, that it would be desirable that this code should be allowed for a time to fall into the hands of individuals conversant with the matters upon which it treated: that the public authorities would then be more competent to judge both of the merits of the project itself, and of the scrutiny which it might be proper it should undergo before being enacted as law. This opinion of the Governor-general was communicated to the authorities at home, who entirely approved of Lord Auckland's view, and there the question rested at that time,—the year 1837, or perhaps the beginning of 1838.

3185. To what authorities was the consideration of that report submitted?

I ought to have mentioned, that at the same time, on the suggestion of Lord Auckland, the code was referred to the Judges of the Supreme Courts, and the Sudder Courts at the several Presidencies, and to a few other individuals supposed to be particularly qualified to judge of its merits. It was referred to them with the view of ascertaining their opinions upon the subject. In the course of a year or two, reports from those individuals were submitted to the Government, some at greater length, and some pointing out only particular parts of the code which seemed to admit of improvement; and those reports lay over for several years. No other mode of reference was resorted to.

3186. At what period were those reports again referred to the Law Commission?

I do not recollect the exact date, but it was during Lord Hardinge's administration. The remnant of the Law Commission, consisting then only of Mr. Cameron and Mr. Daniel Eliott, was called on to examine these reports, and submit their opinions regarding them. They went over the reports in detail, and pointed out how far they thought the comments and criticisms called for any correction of the code, and how far they were misplaced. Their report, in two parts, was at great length and in minute detail, forming a large volume, which was sent home; and, after that report had been taken into consideration, the Court of Directors, in the year 1848, authorized the Government to enact the penal code as law, with whatever modifications and alterations might seem to them advisable.

3187. Has any answer upon the subject been returned?

The authority given by the Court of Directors was not acted on; I do not know exactly why. I suppose other business occupied the attention of the Government, and the Court's instructions were not brought particularly to notice till, I think, two years ago, with reference to the proposal that British-born subjects should be made amenable to the Company's Courts all over India, whether native or English. This idea was very strenuously adopted by the several members of the Government, and it had Lord Dalhousie's concurrence; he was absent at the time, but he expressed his concurrence. The drafts of three Acts on the subject were printed and published, as is ordinarily done, in order that public attention might be called to the subject before being finally enacted. When Lord Dalhousie returned to the seat of Government, his attention was drawn to the question what criminal law was to be administered by the Company's Courts, if their jurisdiction were extended to British-born subjects, and he objected to their being tried in the same manner as natives were, by Mahomedan law, modified by the Company's Regulations and by the practice of the Courts; the system of criminal law which had gradually been formed for the natives of India. This law, he urged, was not to be found anywhere; nobody could tell what the law was. He totally objected

objected to it, for his fellow-countrymen, and said that, unless a code were first framed, he should withdraw his assent from the project of rendering British-born subjects amenable to the Company's Courts. This led Lord Dalhousie to draw attention to the penal code, and as authority had been received from England to enact that code, after revising it, he did not see why the Government should not do so. Being called away by the course of political events, he was about to proceed to the North Western Provinces, and expressed his regret that he should be precluded from taking an active share in the duty of revising the code, which he should have had much satisfaction in doing; but he thought the remaining members of the Government ought to set about it in good earnest, and he should be obliged to them, if, from time to time, they would let him know what progress they made, and he would pass an opinion upon their proceedings. The revision of the code was completed, but the mode in which it was done, was by the late fourth member of Council, Mr. Bethune, on whom the duty must mainly have devolved. drawing the code afresh. He objected to many of the characteristic features of the code, or rather to its peculiarities. He objected to the new language used, as being totally unknown to an English lawyer; and he saw no use in setting aside the terms of English law, which, if not etymologically correct, had acquired a settled and definite meaning. He thought this was a mere whim, or love of singularity, which ought not to be indulged. I believe he objected also, that the new phraseology was unlikely to be continued afterwards, as the Government could not be expected to adopt it in the enactment of future laws. He was opposed to what the Commissioners who framed the penal code prided themselves very much upon, namely, the illustrations. A great many of the enactments had hypothetical cases put, illustrative of the application of the enactments, showing that in such a case the enactment would apply, and in such another case it would not. Mr. Bethune said, that if the two clashed, a judge could not tell which was to prevail, and that a double definition was contrary to scientific principle. He drew entirely a new code; Lord Dalhousie sent this home, saying it was quite clear that the sanction they had for passing the former code, did not apply to the present one; and begging the authorities at home to make choice between the two.

3188. The Committee understood that this was a criticism of Mr. Bethune, upon the originally proposed code, commonly called Mr. Macaulay's?
He drew it afresh, and it was sent home as a completely new code.

3189. Do you know whether the Governor-general and the other members of the Council took the same view of Mr. Macaulay's code as was taken by Mr. Bethune?
They did not express any decided opinion; Lord Dalhousie was the only member of the Government who recorded his opinion after the code was completed; the other members, I ought to mention, however, are presumed to have taken a share in the framing of Mr. Bethune's code. Lord Dalhousie said it seemed to be drawn up in a very clear and able manner; he passed commendation upon it, but he said it was not the same as the other, and he did not like to take upon himself to decide the point; he did not indicate, however, any preference for one or the other.

3190. Was there any official communication of Lord Dalhousie's opinion, when this new code of Mr. Bethune's was transmitted home?
His Lordship's opinion is favourable to it, but not by way of comparison with Mr. Macaulay's code; he draws no comparison between the two, but he speaks favourably of it.

3191. This opinion was conveyed in an official report, from the Governor-general to the Court of Directors?
It was.

3192 With respect to the two Reports of the Law Commission, upon the opinions sent to them of the members of the Supreme Court, and others who were consulted upon the subject of Mr. Macaulay's code; in consequence of those reports, was any alteration made in Mr. Macaulay's original draft of the code?
No alteration has ever been made in it; the report which your Lordship's question refers to was drawn up 10 years after the code had been prepared.

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3193. Was any alteration made in that original draft by Mr. Cameron and Mr. Millett, the Law Commissioners?

They suggested a few alterations, not very material nor very many; they did, however, suggest some alterations; they did not pass any opinion upon the general merits of the code, nor did they examine those questions which other parties have raised. Sir Lawrence Peel, for example, strongly objects to the illustrations; he says that they would hamper courts of justice; that they are brought in where they are not wanted, and where they are wanted, they are missing. The Law Commissioners (Mr. Cameron and Mr. Eliott) did not pass any opinion about them, nor generally about the merits of the code, though their opinion evidently was a very favourable one as respects the details.

3194. Of which code are you speaking?

Of Mr. Macaulay's code.

3195. Was the opinion of Lord Dalhousie given in favour of the code, as altered by the Law Commissioners, or in favour of the code as originally drawn by Mr. Macaulay?

I rather think that report came home before Lord Dalhousie succeeded to the Government, but he certainly did not record any opinion upon the subject.

3196. Subsequently to 1848, were the alterations which were made by Mr. Bethune mere alterations of form and arrangement, or were they alterations in principle?

It does not look like the same production: the arrangement is totally different: the phraseology is much more like that of English enactments. The code, as I have stated, consists only of definitions and a classification of crimes, with the allotment of the appropriate punishment. The two Law Commissioners, who reported upon that code 10 years afterwards, Mr. Cameron and Mr. Daniel Eliott, under the instructions of the Government, framed forms of process by which the code was to be put into operation; that Report also came home.

3197. In all the discussions which have taken place upon this subject, have you heard many opinions which have been favourable to that part of the code which is called the illustrations?

I think a difference of opinion exists upon them. The opinion of the Chief Justice, Sir Lawrence Peel, is very much against them; so was that of Mr. Bethune. One obvious objection to them is, that no laws or amendments of laws, as they are gradually made, could very well be expected to be accompanied by similar illustrations. All new enactments would want this aid.

3198. Your own opinion is, that practically they would not be of much utility?

I do not see how they could be useful at all. The case was different with the Law Commissioners, because they might be supposed competent to take a judicial view of enactments; but the Legislature, speaking prospectively and generally, cannot judge judicially of the effect of its own enactments; that must be left, I imagine, to a different tribunal. Courts of justice have to deal with the effect of enactments as they stand, whether that corresponds with what was in the mind of the Legislature or not. If the Legislature undertakes to say, the true and sole meaning of an enactment is to such an effect, it may turn out afterwards that, in the judgment of a judicial tribunal, the Legislature has made a mistake, and that there are many meanings which it will bear, besides that which the Legislature has pronounced to be only one.

3199. However well any statute may be drawn up, does not difficulty arise in the interpretation of it at first?

I do not know that there is much difficulty, or that the difficulty is removed by this expedient. I have looked at many of those illustrations, and it appears to me, that the things they illustrate are things which there would never be any difficulty about; they are not wrong, but they are at best superfluous. If it were otherwise, I think they would be very questionable. If the Governor-general in Council and his Secretary, in framing a new Act, were to add to it their own interpretation, saying, these are the only cases to which it will apply, and it will reach such a case, when a judge might say it will reach other cases, or will not reach that one, I think the illustration would not carry weight, but would only create confusion.

3200. Those illustrations were omitted from Mr. Bethune's version of the code?
Yes.

3201. What is the state of the question now with respect to that altered version?
In the beginning of the present year, only a few months ago, when Mr. Peacock, the present fourth member of Council, was about to proceed to India, the Court of Directors, in answer to a reference from the Government sending home this revised code, without deciding in favour of one or the other code, instructed the Government, in communication with Mr. Peacock, to enact as law such penal code as they might approve. It was not put as a choice between the two, but the matter was left entirely to the discretion of the Governor-general in Council, in concurrence with the new fourth member of Council, who was then proceeding to India.

3202. Are the Committee to understand that those instructions to the Governor-general to give practical operation to whichever code he and the Indian Government gave the preference to, implied that it was to be done without any further instructions from home?
Expressly so.

3203. What was the date of that despatch?
It was in the early part of the present year, either in January or February.

3204. In point of fact, the decision at this moment rests in the discretion of the Indian Government?
Entirely so.

3205. Directions have been sent from this country to the Indian Government to frame a code, choosing either Mr. Bethune's or Mr. Macaulay's, or an amalgamation of both, but some code is to be established in India?
Authority, rather than instructions.

3206. They are merely permissive?
I think so.

3207. If the Indian Government consider the question at this moment ripe for decision, that decision rests exclusively in their hands?
They have express instructions to that effect.

3208. Has no reply been received from the Government of India upon the subject?
There has been barely time for it. None has been received.

3209. Are the Committee to conclude that in the opinion of the home Government it is desirable that a code should be established?
The home Government have hardly expressed an opinion on the subject. They have little means of revising the legislative proceedings of the Indian Government. Where a decision has been arrived at by the Governor-general, with his Indian councillors and the fourth member of Council, as well as by the Law Commission, consisting of the best men who could be selected to consider such a subject, there is no authority either at the India House, or the India Board, or anywhere else, to whom the case could be submitted for a higher opinion. It would be a reference from a higher authority to a lower to ask any one else to pass judgment upon what has already been under the deliberate consideration of such men as Mr. Macaulay, and Mr. Cameron, and Mr. Macleod, and afterwards under that of the Governor-general and his colleagues. There are no means of revising it. Indeed there are no adequate means of revising ordinary Acts of the Indian Legislature. There is a power of disallowance given to the home authorities, but that has respect to the general effect of a law.

3210. Would not your answer rather apply to the objections which may exist to the Court of Directors at home expressing any opinion as to the specific merits of any particular code. Are the Committee also to understand that the home Government have not come to any decision with regard to the propriety of any code being formed or not?
I think the effect of the last instructions of the home authorities is certainly that there ought to be a code; but the home authorities have not attached in

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any degree the same importance to a mere penal code, that the framers of the code have done. In fact, it was always regarded as a very small item of the task of legislation which was prescribed by Parliament for the Law Commission and the Indian Government. The task prescribed to them, was to examine the powers and the jurisdiction of all tribunals in India, and their mode of procedure, all existing laws, civil or criminal, written or customary, and to look into the whole judicial system. Vast room there is for improvement, no doubt, and great practical benefit would have arisen from such a review, if it could have been completed. I suppose the difficulty was much greater than was anticipated when the task was prescribed by Parliament; but I think the general feeling is, that the Commissioners were directed to begin at the wrong place, and that practically it was of very little consequence whether the penal code passed or not. A very superior piece of workmanship it is, if it will work well, as I believe it will, after all the opinions passed upon it; but it would have made very little difference to India either in the condition of the people, or the administration of the Government, if the code had been enacted as a law when it was first prepared. The thing of consequence would have been to have reviewed the whole judicial establishment, and to have simplified the mode of the administration of justice. The great evil in India is the facility afforded to chicanery and to perjury and forgery, by the very complicated and intricate processes by which civil and criminal justice are administered. It makes no difference, comparatively speaking, whether a more scientific definition and classification of crimes and punishments be accomplished or not, or whether this be left just as it is; it is the administration of the law, civil and criminal, which requiries to be improved. The chief improvement in the law itself which was necessary, was to have afforded the means of ascertaining and defining the rights of landed property, with facilities for acquiring and transferring those rights; but it is the administration of the law, the various tribunals, and their modes of procedure, which most require reform. In a rude state of society, what courts of justice turn their attention to, is only to do justice between the parties in a particular case; but in its more advanced stages, justice between the parties is set aside altogether by the consideration given to precedents and to general principles. The parties have to take their chance whether justice is done between them individually; but the ingenuity and the learning of lawyers and of judges is always applied mainly to the process by which the merits of the case are permitted to be ascertained, and not to the merits of the case themselves. They are constantly on their guard lest something should be done which might affect the administration of justice in time to come, the merits of the particular case being comparatively of no consequence; but such a system is utterly unfit for the state of society in India. What is wanted is some short way of settling between A and B, which is in the right. We have borrowed the English system, adapted to the more complicated relations of life and uses of property, and affording scope for all kinds of chicanery, and forgery, and perjury. The greatest benefit would have accrued if any improvement in the courts of justice and in their modes of procedure could have been devised. The first time the enactment of the penal code had any practical application, was when Lord Dalhousie refused to extend the jurisdiction of the Company's Courts to Englishmen, unless he saw what code of law was to be administered. In that instance, the question had a practical effect, but never till then.

3211. Have you formed any opinion as to what alteration or improvement you would introduce into the administration of justice, for the purpose of correcting the numerous evils which you have described as already existing?

That is a very large and difficult question to consider.

3212. The Committee understand you to say, that the Law Commission began at the wrong end, and that you think they should have introduced some practical remedies for the evils which exist, instead of devoting their attention at first to the formation of a new code. This new code having now arrived at a position in which it must be adopted by the Indian Government, or reasons given why it is not adopted, would not you consider it desirable that the same machinery should be applied to remedy some of the evils which you have indistinctly shadowed forth to the Committee?

I do not know whether the Law Commission was the best machinery which might

might have been employed: I think the Indian Legislature might be strengthened and its means of operation improved.

3213. You think it of great importance that some means should be immediately taken to remedy those evils of a practical nature which you have described?

I think so.

3214. Have not there been great changes made in the administration of ustice in India of late years, by the appointment of a greater number of native Judges?

The native Courts are required to go through the same forms of trial as the other Courts.

3215. Have not a great number of natives been employed of late, which was not the case formerly, and by those means have not the arrears of business in the Courts become much less than they were?

That is the case; but it does not hinder the roguery and trickery and falsehood which are going on.

3216. Would not a native Judge be much more likely to detect roguery and fraud in his own countrymen than a European Judge?

I think the employment of the natives in the administration of justice has been a source of great advantage, and that it might be carried much further; they have the administration of almost the whole of the original jurisdiction now.

3217. As you do not consider the Law Commission the best machinery for carrying out the improvements which you desire, will you state to the Committee any better machinery?

I would strengthen the Legislature itself. When the Law Commission was appointed, it was under the idea that, within a much shorter period than has elapsed since that time, the great work laid down for them in one or two sections of the Act of Parliament would be completed: that they would be able to revise the whole system of the judicial tribunals, with their modes of procedure, and the customary and written law of the country; that they would be able to get through the whole of those subjects, and to make their report; so that before the next examination into Indian affairs, all things should be set right. Instead of that, the only great branch of their inquiries which they have gone through has been the penal code. I do not think the same view can be very well entertained now,—that the thing is to be done by one great effort, or by appointing a commission for the purpose. The mode of carrying out improvements must be by strengthening the hands of the Legislature. The Legislature at present is a great deal too much identified with the Executive Government. They pass a law, just as they issue an order. At the same Board both one and the other are done. It would be a great improvement if, after the preparation of laws by the Executive Government and its officers, when the Legislature met, they had the addition to their number of the Chief Justice, and perhaps another Judge of the Supreme Court, one or two Judges of the Sudder Court, and the Advocate-general, or some other competent persons; so that there should be a more numerous deliberative body. The hands of the fourth member of the Council, a person who is supposed to have been trained in the science of jurisprudence, should be strengthened by having a legislative Secretary, who should make it his business, having nothing else to do, to study jurisprudence under his superior. The duty of those two might be, under the instructions of the Executive Government, to prepare business for the Legislature, so as to enable it to deliberate upon any projected law; they might thus gradually go on with everything which has been laid down in the Act of Parliament as the proper business of the Law Commission.

3218. You would have two Councils, one the existing Executive Council, and another, the Legislative Council, to which you propose that certain additions should be made?

Yes, leaving the Governor-general's concurrence quite essential to the passing of any law.

3219. Would you have the Governor-general present, and assisting at the deliberations of the Legislative Council?

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No doubt: both he and his colleagues; it is quite necessary that if there be two authorities his voice should be imperative.

3220. In point of fact, you would make additions to the existing Council for the special purposes of legislation?

To give to their deliberations the character of those of a Legislative Assembly; something of the kind was proposed by Lord William Bentinck, which led to the institution of the Law Commission.

3221. Would you propose that there should be members of this Legislative Council from Madras and Bombay?

I think not; I think there would not be regular business for them. I think they would be idlers if they came; besides you can always obtain the information you want by reference to the Governments.

3222. You would not necessarily exclude them from forming part of the Council?

I would allow persons from Madras and Bombay to be eligible for the office of Legislative Secretary, or as members of Council, as they now are; there could not, for instance, be a more fit person than Mr. Daniel Eliott, who is now a member of the Council at Madras, to be employed as a member of the Legislative Council, or Legislative Secretary.

3223. Might not a member from the Council of Madras or Bombay be occasionally sent for to assist in the discussion of particular questions?

The distance is so great, and in India every man is so fully occupied with his proper duties, that I think more harm than good would arise from deputing them on a special duty of that kind.

3224. Do you think it would be advisable to have a body of assistants from among the natives, in order to give their advice to the Legislative Council, or to the Commission, or whatever body of persons might be chosen to enact the laws?

I do not know that you could very well incorporate them with the Council, or with any body like the Law Commission; but I have no doubt whatever, that improving as they are, and as they will continue to do, their opinions must be constantly relied upon.

3225. It has been stated before the Committee, that it might be advantageous that there should be a body of native assistants or assessors, who might be consulted by the Legislative Council or the Government of India in framing laws; do you concur in that suggestion?

No; I think they must first go on improving as judicial officers, which they will do; gradually, the judicial duties should be left entirely in the hands of the natives. You can train and teach them as you please. You cannot do so with the Company's servants; they are there too short a time, and cannot acquire the necessary knowledge in the first instance, nor the necessary experience afterwards; and they are men of all work. A man does not know how he is to be employed when he is first brought up. The old judicial officers complain very much now that there is no proper training. Civil servants used to be employed under the title of registrars, first in the trial of small causes, but that practice has been discontinued. An English judicial officer becomes a judge in an appellate court before he has sat as a judge in a court of original jurisdiction. That has been complained of, but I do not see how it can be remedied. The civil service is too great a burden to the state already, and you could not increase the number of civil servants.

3226. Would not it be possible to attach registrars to the Sudder Ameen Courts, for the purpose of learning their business?

The effect of that would be to make it necessary to increase the number of civil servants, which is not desirable. In my opinion, the natives show a wonderful aptitude for the judicial office in many cases; they are sometimes corrupt, but I think the best remedy for that would be to trust them; when confidence is placed in them, they will gradually learn to deserve it.

3227. How would you constitute the appellate courts; would you employ natives in such an office?

Under the superintendence of Europeans. I do not mean that the Europeans should

should sit in a judicial capacity, but that they should exercise the sort of control over the judicial administration which is exercised by the Government of India. If the Government is satisfied of the inefficiency, and still more of the misconduct, of an English Judge or civil servant, it has the power to remove him, and it is required to do so without scruple. I would give to Commissioners in a district a superintending power of the same kind. They should learn in what repute the native Judges are held, should see that they do their duty, should look at the returns of the business they get through, and should communicate freely with the persons in the district about them. This can only be done by degrees, as you find competent men for the purpose. There are already some native judicial officers who stand in the highest repute even among Europeans.

3228. Would you recommend that an appeal should be made to a European officer, and that the European officer, and not the judge, should order a new trial, if he thought fit, by some other native judge?

I have not particularly considered how the system of appeals would operate; but the present system would be quite applicable to such a change. The principle of the present system is, that any suit above a certain amount may be appealed from the judge who decides in the first instance, to his next superior. The first decision in appeal is final, unless there are special grounds for a second appeal. There can only be a second appeal upon special grounds. That system would be equally applicable, if, in any of the zillahs, the Government placed a native judge, where Englishmen have hitherto held the office. The superintendence I should recommend would be placed in a higher officer, such as the Commissioner, whose authority at present extends over five or six of those zillahs, confined chiefly to revenue and police affairs. I think he might exercise some sort of superintendence, not so much over the judicial acts of the officer as over his official conduct, to see that he is minding his business, and is held in good repute. As you obtained competent and trustworthy officers, I think they would do their duty better than Englishmen would; and you could have a college to educate them up to any point which might be thought necessary.

3229. Have you been in India yourself?

I was for about 24 years in India.

3230. To what do you attribute the great deterioration of the native character through the influence of our courts?

I do not know that the character of the natives has deteriorated; it may have done so, but I do not know that it has. What I stated was, that the nature of our tribunals, but chiefly their mode of procedure, affords very great encouragement to legal chicanery, and to perjury and forgery. These abound in all the courts in India.

3231. Do not they prevail to a much greater extent in the Regulation Provinces than in the non-Regulation Provinces?

Probably they do.

3232. In what respect is the procedure superior in the non-Regulation Provinces to the procedure in the Regulation Provinces?

I have no particular information upon that subject. I should imagine that they take a simple course. They call the parties before them, and hear what they have to say; and if they are only trying to make a case, they are sent about their business. If, again, they have a case, the judge tries to get at the truth of it in the simplest way. It is some such improvement as that which is wanting in the Company's Courts. We hold out every inducement to fraud by the multiplication of bill and answer, and rejoinder, over and over again, till there comes a mass of irrelevant assertion, followed by a mass of false swearing, with very little bearing upon the question at issue. From this mass the judge has to arrive at his decision in the best way he can. In despair, he decides the question, if possible, upon some technical point. He fastens upon that to nonsuit the plaintiff, or dismiss the case for default.

3233. The evil, you think, arises from an attempt to imitate our legal technicalities?

I think so. We have adopted in the Company's Courts, the English system of pleading; we have attempted to administer justice in too refined a mode, and to make one case always serve as a rule to govern another. A court of con-

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science is that which is applicable to most of the cases which come before our tribunals.

3234. Does not much of the perjury arise from the facility of deceiving a European?

I should think it did.

3235. An appeal lies from the decisions of the judge in the non-Regulation Provinces to the Sudder Courts in Calcutta, does not it?

Above a certain amount it does, and the Sudder Court is, by a particular enactment, required to adhere to the general principles of the Regulations prevailing in the other part of the Company's territories, without attending to niceties. I do not know how the system works, but I imagine they exercise their discretion in such cases.

3236. Is not it the fact that the judges are biassed to a great extent in the decision of appeals by the technicalities of the English law; that they look more to the principles of the English law than to the principles of Oriental law and usage?

I have not heard that remark made. I think the observation which is usually made, coming to the same result perhaps, is, that they attend much more to legal technicalities than they do to substantial justice. It is much more satisfactory to the mind of a judge of tender conscience, to fix upon a point upon which he can have no doubt. He has none as to a point of law or practice, but as to the facts he has. There is a body of false swearing, and he cannot satisfy himself as to the truth; but upon a technical point, he can make up his mind. And therefore the general observation is, that in criminal as well as civil trials, the decisions turn upon technicalities. Some of our English judges will hardly convict capitally any culprits who are brought before them, because there is so great a body of false swearing; but they fasten upon some particular point of informality, through the means of which they acquit the prisoner.

3237. The judge evades the law upon a technicality, rather than carries it out?

He evades a decision upon the truth and justice of the case; there are some particular judges who are so notorious for this tenderness, that the magistrates apprehend it is of no use to send criminals before them; those are the points both in the civil and the criminal law in which practical benefit would have resulted in the greatest degree, if a reform could have been effected.

3238. Do you despair of seeing such a reform?

No, I do not; but they are not in the right way to it; they are adhering both in civil and criminal cases to technicalities.

3239. You are aware that the Law Commission has expired?

It no longer practically exists.

3240. And you would not recommend a revival of that Commission?

No; but I would strengthen the hands of the Indian Legislature, more especially with reference to my conviction that their work cannot be efficiently scrutinized and reviewed in England. There is no competent authority for the purpose, and none can be created; you could not refer it to the Company's law officers, nor to the Crown lawyers, to judge whether a complicated Act was necessary, and whether its provisions were well adapted to the purpose; nobody can go over the whole process of legislation to judge whether each part of it ought to be allowed. The power of disallowing a law is quite a different thing, if in its general result it be considered an objectionable enactment.

3241. Do not you think, that from the Company's retired servants, it would be possible to find one or more persons whom the home authorities might consult, for the purpose to which you have alluded?

I think this would only make work; I do not think the thing would be satisfactorily done. It was proposed that the Commission should be reconstituted in England, for the purpose of referring the code to Mr. Macaulay, Mr. M'Leod, and Sir George Anderson; but I understand they declined the duty.

3242. The Committee understand that you would prefer to employ the existing machinery for legislation in India, rather than to establish new machinery here for its correction?

Quite

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Quite so; this ought to be borne in mind with respect to the penal code, that there is nothing in it peculiar to India, except a few terms; the provisions of the code, if they are good, are good for all countries, and not for India especially; and, therefore, it did not seem to be the sort of work on which an Indian Law Commission should be employed. It is as well adapted to Louisiana or to France, from which some of its provisions are borrowed, or to any other country, as to India; no one can question the merits of the performance; it was executed by very superior hands, with great pains on their part, they being perfectly satisfied with their own workmanship; and I make no question that it is deserving of all the approbation which such a production can receive, and may serve as a pattern.

3243. The Law Commissioners have been chosen hitherto from the English bar; do you think that the English bar affords the best means of education for such a post?

It is essentially necessary that the fourth member of Council should be a person trained to the science of jurisprudence; such a person might be found who had studied it as an amateur, or with some other view. It does not necessarily follow that a practising lawyer is the best person; Mr. Macaulay was not so, nor Mr. Cameron.

3244. Would not a Scotch barrister, who had been trained in the civil law, be highly fitted for the office?

A person thoroughly trained in the civil law would be quite as competent, and indeed, in that respect, more so.

3245. Or a civilian from the English Courts?

Possibly so.

3246. Complaints have been made of the spirit in which the Charter is interpreted by the Supreme Court; it has been said that they interpret it as they would interpret powers granted to a corporation in England; do you think any evil arises from that source?

I do not know exactly to what the question applies.

3247. The interpretation of a charter as regards powers granted to a corporation in England, would tend to limit as much as possible those powers, leaving to the supreme authority in England the execution of any further powers which it might be necessary to call into action; but in India there would be no such supplementary authority to supply deficiencies, if too great a limitation were put upon the powers of the East India Company in the administration of the general government of the country?

My impression is that the Supreme Court have no power so to act; the legislative authority of the Government could instantly restrain them. The power of the Legislature of India, under the last Act, extends to the Queen's Courts as well as the Company's Courts; therefore, if any such difficulty arose, it would be removed immediately by a new enactment. At particular times there have been conflicts between the Courts and the Government, both in the last generation and in the present; but, generally speaking, I should say that the feeling of the Courts, and certainly of the judges individually, is to give a cordial support to the Government. I do not think they desire to thwart the Government, and I am persuaded that it is in their power to do so; the authority vested in the Government in its legislative capacity, puts the remedy in their own hands, and would instantly restrain the Supreme Court in such a case.

3248. Are you not connected with the Financial Department, as well as with the Judicial Department of the Government?

I have been so, in the course of my public service.

3249. Has your connexion with the home administration of the affairs of India enabled you to state to the Committee an opinion as to the changes made by the last Charter Act in the relations between the minor Presidencies and the Supreme Government; is it your opinion that such changes have been advantageous or not?

I think they have been of advantage; I think the principle of control has been carried too far in its operation; that is to say, the minutest disbursement at one of the subordinate Presidencies is interpreted in Calcutta to require that

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all the circumstances attending it should be reported for the previous sanction of the Governor-general in Council. The Governor of Bengal takes more latitude to himself, though in that capacity he is as much under the authority of the Supreme Governor as the governments of Madras and Bombay. There is even more sympathy for the North Western Presidency, as part of the Bengal territory; but with respect to the Presidencies of Madras and Bombay, the officers of the Government of India seem to take a pleasure in running them down. I do not think that that can have been intended. The general principle of control seems quite proper, but with respect to petty disbursements, it appears that the natural course would be, that the local government, in its discretion, should authorize them, and that a periodical list of them should be submitted to the Government of India, and should be liberally construed at head-quarters.

3250. It is not infrequent that the decision of the Governor-general in Council is altered by the authorities at home, is it?

In some instances it may have been so; but the authorities at home, and the India Board particularly, are very averse on principle to setting aside any such decision.

3251. You think the remedy would be that that which upon the whole has been a beneficial change, inasmuch as it gives the supervision to the Supreme Government, should not be carried out so much in detail?

I think so. The principle is perfectly correct, but the application of it has been made harassing, and unnecessarily stringent and minute.

3252. You have not been in India since the last Charter Act, have you?

No; but I have had daily experience of the working of the system.

3253. Have you, from your experience of the correspondence at the India House, and your observation of the business there, any suggestions to offer to the Committee with respect to reducing the extremely voluminous nature of the present correspondence?

The theory of the correspondence is, that everything which is done by the Government is put upon record, and everything which is recorded is reported to the Court of Directors, and everything reported is answered. But the state of circumstances which suited the earlier history of the Government is quite obsolete now; and my impression is, that nine-tenths of all the transactions should only be recorded in the proceedings and sent home, with an index referring to such a page of the Proceedings, but that there should be no report upon them at all. It is quite immaterial to say that the Government appointed such a man to such an office. There is nothing to found any proceeding on. It is equally immaterial to say that they sanctioned such a disbursement, if there be nothing in the circumstances requiring explanation. All that is necessary is, that there should be an index, and that the proper officer at the India House should regularly look over the Proceedings, and see whether there was anything which ought to be noticed. Common-place transactions ought no longer to form the subject of a letter on the one side, and an answer on the other.

3254. Are not you aware that one of the objects for making this minute personal record is, that the home authorities may in all cases have before them a statement of the character and conduct of all their servants?

The proceedings would come home with an index, only the same matter need not be told over again in the shape of a letter. Everything is put upon record, and what is technically called the "Broken Set of Proceedings," which contains the proceedings of the Government to the latest day to which they can be made up, should always be accompanied with an index, which some one in the office could frame, showing that in the Proceedings would be found, under such a title, such a transaction. Whatever happened should be entered in the index, and it should be the business of the officer at the India House to look down the Proceedings, and see whether there was anything in them requiring special notice. It is quite superfluous now, to do what in the earlier stages of the Indian Government they did, for the purpose of magnifying their office. Everything was then made the subject of a formal letter and a formal answer. The time, in my opinion, is gone by for all that.

3255. The

3255. The Government of India being a Government carried on by record, is not there some danger of losing part of the present control over it by abridging the correspondence?

No, because a record would still be kept. This is now the case, and will be the case so long as the Government of India is a collective, not an individual, Government. The record comes home, and the only question is, whether it should be accompanied by a correspondence which recites in the form of a letter the same transaction already recorded in a different shape.

3256. And all this comes home in triplicate?

Yes; that was done when the business of the Government was very small, and the object was to make it appear large. The contrary is the case now.

Ordered, That this Committee be adjourned till Tuesday next, Three o'clock.

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APPENDIX.

Appendix A.

PAPER referred to in the Evidence of C. H. Cameron, Esq., of the 7th June 1852.

MINUTE by the Hon. Sir T. H. Maddock, Knt., dated 22 May 1846.

The Law Commissioners' proposed Lex Loci Enactment. Objections offered to parts of the proposed Law by Natives at Madras.

This Draft was published during my absence, or I should have made, in writing, certain observations on the proposed law, and should have recorded those opinions on the subject, which I have several times expressed in Council when this project of law was brought forward.

I now intend to do so; but as I have seen the Memorial from Madras against the provisions of Clause 11, 12 and 13, with a draft of answer proposed to be given to the memorialists, and understand that other Memorials have come in against the same clauses, I merely wish, on this occasion, to express my opinion, that it will not be a judicious course for the Government to adopt to make a formal reply to the objections of the memorialists while the question is still under consideration in the Legislative Council, unless it is desired to give them an opportunity of carrying on a written discussion with Government, and of refuting, if they can, the arguments that are to be used in reply to their Memorial.

At all events, I should like to read all the other Memorials that have been received, before the Government attempts to answer any of them.

(signed) T. H. Maddock.

MINUTE by the Hon. Sir T. H. Maddock, Knt., dated 9 June 1845.

Proposed Act for providing that religious belief shall not affect the rights or property of the person entertaining such belief.

Provisions similar in their tendency to those contained in this proposed Act formed a part of the *Lex Loci* Act; I was opposed to them then, and I still regret that it should be thought necessary to legislate on the subject.

The promulgation of the intentions of Government, as intimated in the 10th, 11th and 12th Sections of the *Lex Loci* draft Act, has called forth Memorials from the Hindoo community of Calcutta and Madras, protesting against the proposed sections as a direct infraction of their law, and as a departure from the principle on which they have hitherto been allowed by their British rulers the full enjoyment of their religious and civil rights. That there have not been more Memorials presented against the measure, may be attributed to the want of combination for public purposes among the natives anywhere but in the capital towns, and more perhaps to the rareness of conversion from the Hindoo religion of any persons of family or property, except in these large towns, or of any persons at all but those of the lowest caste, whose families possess little or no property that would give them an interest in the operation of the proposed law. Where there may be no missionaries, and no converts, the Hindoos might take little notice of a proposition of this kind, even if they were made fully acquainted with its object, from a belief that it was not likely to affect their particular interests, though it is to be apprehended that the great mass of the people in the interior know little or nothing of the course of legislation, and remain ignorant of every new enactment till it comes to be applied to themselves.

I should attribute the apparent indifference with which the measure has been received, not to apathy on the part of the natives, but to the scanty and partial diffusion of knowledge of the proceedings of the Legislature among the masses of the people, and to their general ignorance of their right to memorialize the Government, and of the proper mode of exercising that right; but there will be agitators among them, and this measure will be universally condemned, though few remonstrances against it are laid on the Council table.

It is on this ground, and because I see that any measure of this kind must diminish the attachment of our native subjects, and shake their confidence in the Government, that I regret the course which has been adopted, and which it is now proposed to adopt, and, moreover, I can discover no imperative necessity for thus risking the loss of the respect and affection of the great body of the people.

We have never heard of any complaint on the part of the Mahomedans of the forfeitures or disabilities which converts from Hindooism to their faith are liable. The Christian missionaries alone apply to the legislature to set aside the operation of the Hindoo law in the case of their converts from that faith, and from them I find only one Memorial recorded among the papers; it is that of the Rev. Mr. Gogerly, and other missionaries, in which, among other grievances, they complain of the loss or total forfeiture of lands, goods and other property to which their converts may, in certain circumstances and particular localities, be liable. There have been many letters on the same topic published in the newspapers of late, and it is universally understood that the proposed enactment is meant to apply particularly, if not exclusively, to the position of converts to Christianity; and it follows, that although the proposed law propounds a principle which, theoretically, must be admitted as

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just, that is, that no man shall suffer loss or injury on account of his religion, it is regarded by the Hindoos as partial and unjust, because it will operate only in one direction, and in favour of those who leave the religion of their forefathers to embrace the religion of those who make the law, and in reality, though general in its terms, it will operate only in the case of converts from Hindooism to Christianity; for neither Mahomedans nor Christians can become Hindoos, and we rarely hear of the former becoming Christians.

If the Hindoo law makes a man's right to property depend on his being a Hindoo, and that right is forfeited on his ceasing to be a Hindoo, the enactment is clearly subversive of the principle on which that law is founded; and, however equitable it may appear in theory, as it cannot be enforced in favour of a convert without depriving his unconverted brethren of that which under their own law had been forfeited by him, and had devolved upon them, they have good grounds for questioning its justice.

If a majority of the Hindoo people were converted to Christianity, or if any considerable number of Hindoos possessed of property to be affected by this measure had been converted, there would have been more reason for setting aside the provisions of the Hindoo law against apostates from that religion. But if the proportion of such converts to the great body of the Hindoo community is small in the extreme, which is the case among all but the very lowest classes, this measure, not being called for by the people, and not being necessary for the public good, is certain to be attributed to a design to favour the operations of the missionaries, by giving a new encouragement to converts.

It may be said that this encouragement is not new, for that it was given by Regulation VII., of 1832, of the Bengal Code, and the present measure is described as an extension only of the principle of that Regulation; but that Regulation is stated by the Calcutta memorialists to have become a dead letter, and certainly has been seldom acted on; besides, when it was passed, the practice of publishing Regulations before enactment, was not in force, and the people had no opportunity of objecting to their provisions beforehand.

This measure is now submitted to the public, at a time when the minds of the Hindoos are in a state of much excitement, arising from the injudicious proceedings of some missionaries engaged in the education of native youth; and the general confidence in the establishments conducted by these gentlemen has been so much shaken, and the Hindoos have been so much alarmed lest their children should be taught to forsake their religion, that a great effort has been made to establish a school, to be supported by Hindoo gentlemen of rank and property, expressly for the purpose of excluding missionary teachers from the new seminary, and of drawing to it as many pupils as possible from the schools of the missionaries.

At such a time, the enactment of a law such as that proposed will act as a new encouragement on the part of Government to the efforts of the missionaries, and will be considered as such by the natives. Sec. 9, Regulation VII. of 1832, was not enforced, and its extension to Madras and Bombay had not been called for at those Presidencies, and there was no necessity for the Government departing from that cautious policy in all matters touching the rights, feelings and usages of the people which has been invariably inculcated by the home authorities, and which, by preventing a suspicion that the missionaries were acting in accordance with the Government views, or that Government was in any way connected with them, has really facilitated their operations, without compromising the Government, or alarming the people.

The only clause in the *Lex Loci* Draft which could have reconciled me to passing those portions of it which affects rights and property, independent of religious belief, is in the last proviso of Sec. 11; for if it is declared, that by renouncing his religion a man shall not lose any rights or property, it follows, as a corollary, as a matter of reciprocal justice, that he shall not, by renouncing his religion, deprive any other person of any rights or property. In the case of a Hindoo convert to Christianity, it required the latter provision to make the former one equitable and just; but it was found that one was inconsistent with the other, for the convert could not recover that which, according to Hindoo law, he had forfeited from the party who succeeded to it on his forfeiture, without depriving that party of rights and property.

In the draft of separate Act, now under consideration, no such provision is attempted; and I consider this proposed law more open to objection, in some respects, than the sections in the proposed *Lex Loci* Act, which it is intended to supersede.

I have not been a party to the consultations which have led to the project of establishing in India the practice of passing private laws for compromising differences between individuals, and do not, therefore, know the grounds on which it has been recommended: it is open, I think, to much objection.

It would lower the dignity of the Supreme Government to be brought forward on trifling occasions, as meddling in the administration of justice, and it would not be desirable to be perpetually reminding the people, by public acts of the Government, of an event in the history of the country, which they regarded as an infringement of their rights, and as an arbitrary encroachment on the part of the Government. I should much prefer empowering some inferior authority to act in the matter.

But independent of this point, I foresee much difficulty likely to attend the working of the proposed law, as far as concerns Hindoos and converts from Hindooism, which are the principal or the only classes to which it would practically apply: there is an attempt to distinguish, by law, rights which may be exercised and enjoyed by an apostate from the faith of his family, from rights which cannot be exercised and enjoyed by him, without outrage to the religious feelings of those of his family who continue stedfast to their faith,

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and to put him in possession of the former, and to adjudge him compensation for the latter. This would involve the consideration and decision of most complicated questions, and it is, I think, going beyond what strict justice to the convert requires. Those rights which the convert cannot exercise without outraging the religious feelings of his family, he may, without injustice, be considered to have relinquished and voluntarily thrown away, when he abjured the faith to which they were attached, and justice does not require that his family should compensate him for the loss. Though the point is left undefined in the draft Act, the unconverted members of the convert's family are, I presume, the only persons from whom it is contemplated to exact this compensation; and if we consider how many and various may be the rights which the convert might claim, and which fall under the description of those for which he is entitled to compensation, and that they are all likely to be mixed up with religious duties and domestic details, which ought not, on slight grounds, to be matters of controversy in our courts of law, I cannot but think that it would be wiser not to afford to the convert the encouragement which such an Act as that proposed would afford him to enter into a course of litigation of a nature so irritating to the parties concerned in it, and so perplexing to the courts which would have to decide on the matters in dispute.

To describe one or two of the simplest questions which would come before the courts will show the hardships to the unconverted members of a convert's family of being dragged into a court of law, and compelled to make compensation.

In a Hindoo family all the members of it commonly reside in the same dwelling, inherited probably from their forefathers; they partake of their meals in common, and have a common fund for their domestic expenditure; if one of such a family becomes a Christian, he can no longer be permitted to reside in the same house with the rest, or to eat with them; and when, by an act of his own, he has placed himself in a position of voluntary separation from domestic intercourse with his relations, and has forfeited his right to apartments in their dwelling, and to share their meals, he might, under the proposed Act, sue them for compensation for the value of his share of the family dwelling, and all the conveniences and advantages which, by residing there, he would have enjoyed.

Again, in a family of brothers, possessing in common land or other property, the income of which has been bequeathed by their parent, or has been devoted by themselves for the expense of certain religious observances, such as the rites which are performed for the manes of their ancestors, or any other duties of their religion, if one of the brothers is a convert to Christianity, he would, under the proposed Act, have an action at law to obtain from his brethren his share of this income, or compensation in lieu of it.

It surely may be said, that a law which would give rise to such claims as these, would inflict more hardship and injustice on Hindoo families than any to which the Hindoo convert is at present exposed; such a law would serve, indeed, to remove disabilities and privations which one man, knowingly, and of his own free will, has brought upon himself, but not without inflicting pains and penalties on a whole family, and giving offence to the feelings of all connected with them.

There are other kinds of property exclusively of a temporal nature, and not necessarily involving any connexion with domestic arrangements, such as zemindaries, rent-free lands, and money embarked in mercantile operations in which members of Hindoo families are partners, and if this proposed Act is finally enacted, I would strongly recommend that it should be so framed as to affect only property of this description; this I should propose to effect by excluding from the rights which a convert may recover all such as attach to the performance of religious rites, and such as are of a purely domestic nature.

I must take this opportunity of remarking, that the letter addressed to the chairman of the meeting at Madras, in reply to the Memorial of the Hindoo community against that part of the *Lex Loci* draft Act, which was considered by them as a breach of faith on the part of the British Government, did not meet with my assent.

I would not have advised the Government to make any reply to that Memorial till the reply could have referred the memorialists to such alteration in the manner of legislating on the subject as is now proposed; and, moreover, I consider some of the arguments used in that letter as inconclusive, and the tone of it is not exactly that which the Government of India should, in my opinion, assume.

In whatever way the present draft Act may be disposed of, I must beg leave to suggest, that if it is published for general information, and I conclude, although this Act stands as an amendment of sections 10, 11 and 12 of the proposed *Lex Loci* Act, ample time be allowed for the people in all parts of India to understand, and, if they please, to comment on its provisions. Acts of trifling importance, compared to the comprehensive measures contemplated in the *Lex Loci* Act, have had much longer intervals allowed between their first and second reading than was given to this.

In my opinion, time enough should be allowed between the first and second readings of Acts of this nature, involving great principles of policy or jurisprudence, for their transmission to Europe, and for the communication of any opinions which the authorities there may desire to send to us for our consideration; and in the earlier discussions on the proposed *Lex Loci* Act, I always understood that it had been resolved in Council to refer the papers connected with it for the consideration of the Court of Directors before we took any further steps towards legislating on the subject.

9 June 1845. (signed) T. H. Maddock.

Appendix A.

MINUTE by the Hon. Sir T. H. Maddock, Knt., dated 14 June 1845.

Lex Loci draft Act.

This Draft was published during my absence from Calcutta.

Had I supposed that this first step towards the enactment of the proposed law would have been so soon taken, I should have recorded such observations on the subject as had occurred to me, on a full consideration of the proposed law, before I left the Presidency. But as the original project of the Law Commission had been upwards of three years before the Government, and all the members of the Government, whose written opinions are on record, were adverse to some parts of the proposed enactment; and the opinions of the different authorities who had been consulted were divided, there was no reason to suppose that no further discussion would be thought necessary till the proposed law had been laid before the public.

I have thought it necessary to offer this explanation why the remarks which I am about to make were not submitted at an earlier period; and I trust that I may now be permitted, without offence, to comment on the measure as freely as I should have done if the Draft had not been published, and the question was as open to discussion as it was when I left Calcutta in January last.

The existence in any country of a diversity of laws is an evil attended with much difficulty and inconvenience to those who have to administer justice to the people; but it is an evil that will inevitably be found to prevail in any empire which is so extensive as to number amongst its subjects many tribes and nations of diversified habits and religion, and adhering to the various laws and customs which have come down to them from remote antiquity. India has a population about half as great as that of the whole of Europe, and there is a much wider separation from one another among the tribes of which it consists than exists among the nations of Europe. It is not surprising, therefore, that we should experience difficulty and inconvenience in administering to all their own laws, and should deem it expedient to substitute for many various laws some general code that would be applicable to all.

Vide Sect. 64, 3 & 4 Will. 4, c. 85.

Such was the object of the British Legislature, when it declared it to be expedient that, "subject to such special arrangements as local circumstances may require, a general system of judicial establishments and police, to which all persons whatsoever, as well European as natives, may be subject, should be established in the said territories at an early period; and that such laws as may be applicable in common to all classes of the inhabitants of the said territories, due regard being had to the rights, feelings, and peculiar usages of the people, should be enacted; and that all laws and customs, having the force of law within the same territories, should be ascertained and consolidated, and, as occasion may require, amended."

Doubts may have been entertained as to the possibility of realising a design of such vast extent as is here propounded. It was evidently the object of the legislature that the laws to be enacted under the authority of the above-quoted section of the last Charter Act should embrace, in their application, the two great classes of Hindoos and Mahomedans, of which the population of India mainly consists; and though the accomplishment of this object may have been found impracticable, it does not appear to accord with the views of the Imperial Parliament, that we should now sit down to legislate separately for all classes of people in India, not being Hindoos or Mahomedans, and endeavour, by a new law, to perpetuate the distinction between them and their fellow-subjects, or at least to increase very greatly the difficulty of any future attempt to obliterate the distinction, and to establish uniformity in the judicial system.

Viewed in this light, the proposed measure, whatever may be its merits in other respects, falls far short of what was contemplated by the Legislature, and would impede rather than promote the ultimate object which the Legislature had in view; for, as I understand the Act of Parliament, our chief attention should, in our general legislation, be given to the enactment of laws "applicable in common to all classes of the inhabitants."

The idea of framing "three codes of substantive law for the three great classes of which the population of the Indian Empire consists, viz. Hindoos, Mahomedans, and persons who are neither Hindoos nor Mahomedans," has originated with the Law Commission. The plan rests, as far as I am aware, on no other authority.

The project of the *Lex Loci* Act must, however, have been formed on the supposition that such is the course of legislation approved and sanctioned by sufficient authority, or that if there are not to be three codes for the three classes described above, there may be a code applicable to the third class distinct from the laws which may be applicable to Hindoos and Mahomedans.

But this is not the case, at least it was not the case till the publication of the Draft conveyed, to a certain extent, the sanction of Government to its provision, and I am therefore disposed to regard the project of the Law Commission as a suggestion of that learned body quite of a novel nature, and open to discussion as any other question submitted for the consideration and decision of the Government, and further, I am of opinion that, seeing in the plan of legislation which has originated with the Law Commission a wide departure from that which was contemplated by Parliament, it would not be inconsistent with our duties to pause ere we entertain it, and to consult the authorities at home ere we proceed further in the matter.

It is probable, I think, that the Honourable Court of Directors have expected us to adopt this course; for in their letter, No. 24, dated 6th December 1843, in reply to that from this Government, No. 6, of 1843, dated 17th March, with which were submitted the Minutes of

Mr.

Mr. Bird, the President of the Council, of Mr. Prinsep and Mr. Amos; they enjoin us, in the para. quoted in the margin, to report to them what further consideration this important and difficult subject may have received, from which it is not to be inferred that they calculated on our proceeding further towards actual legislation in a matter so much disputed, without reporting to them the arguments and reasoning which had led the present members of the Government to form opinions on the subject different from those which were then before them in the Minutes of Mr. Bird, Mr. Prinsep and Mr. Amos.

Para 8 You will be careful to report to us the further consideration which this important and difficult subject may have received.

But, be that as it may, the measure must now come before Council in a new shape, since it has been resolved to propose a separate enactment in place of Sections 10, 11 and 12, to be taken out of the *Lex Loci* Draft, and the question may, if it is thought proper, be referred to the home authorities.

As to the necessity, in the first place, of declaring the substantive law of the place in these territories, which the Law Commissioners say is doubtful, but which I should rather say is no matter of doubt, as it is never referred to or inquired after in the Company's Courts, the arguments adduced by the Commissioners have failed to convince me that such a measure is necessary. Those arguments might be strengthened, if the basis on which they rest was more clear and better defined. We want a precise definition of what is meant by the negative term "Every person not being a Hindoo or Mahomedan." Without this, it must be all vague conjecture who are the people, and what are their numbers, that we are making the subjects of our legislation. The Law Commission should have laid before us some statistical information regarding the various tribes in India which are neither Hindoo nor Mahomedan, and should have given us some account of the law and usages already prevailing among such tribes before they can ask us to disfranchise them of their ancient laws, or customs which stand in the place of laws, and impose upon them an unknown law imported from a strange land, without asking their consent, or waiting to ascertain whether it is better adapted to their feelings, prejudices and modes of life than the customs which it is to supersede. We want further information as to aliens whose numbers are said to be increasing, as to persons whose legal connexion with their country, or the country of their ancestors, is interrupted by illegitimacy, whose numbers are described as great and increasing, and as to the Armenian inhabitants, of whom there is said to be a large number.

Without information on these points, I cannot judge of the necessity of a law of this kind, the necessity of which should depend, as one of its conditions, on the relative number of those who are labouring under any disabilities from which the rest of the people are free, and from which they require to be relieved by a law of this kind; for, unless it is required by some considerable number of people so situated, and will be beneficial to the majority to be affected by it, I should not deem it expedient to adopt it. Measures of this nature should not rest on the plea of their tendency to diminish inconvenience and difficulty in the administration of laws. This should be held a matter of minor importance. The main points for consideration should be what is most conclusive to the public good, and what is best for the interests of the classes concerned, and most acceptable to them. The public good will no doubt be promoted by every improvement of the law. Only one class, as far as I am aware, and that is the numerous class called East Indians, has applied to the Government to fix their legal position on a footing similar to that in which they would be placed by the *Lex Loci* Act; I do not understand the Parsees and Armenians, though they complain of difficulties in their present position, to have made a similar application. There are Europeans not British subjects, and aliens residing in India, who would probably be glad to be placed under the same law with the English residents; but we have no account of the numbers of these classes; they are not so great but that the law of England might for the present be applied to them without much hardship or inconvenience. This could hardly be done with respect to the East Indians, who are a numerous body located in all parts of the country, and I would not apply this law to any of the people of Asia resident in India without their consent; and if any measures are taken to bring any of these classes under the law of England, pending the compilation of a general code to supersede the partial use of that law, it should be effected by an Act, specifying what classes are to fall under the operation, rather than by declaring all people, not being Hindoos or Mahomedans, subject to it. I should, of course, exclude from any such system all those native tribes whose population is very great, which, by the *Lex Loci* draft Act, would appear to fall under the description of persons not being Hindoos or Mahomedans, for it is not to be imagined that the Budhists, Jains, the many aboriginal tribes of Gouds, Bheels, &c., which occupy an extensive region in the centre of Hindoostan, the Mugs of Arrakan, or the Sikhs of the North-Western districts, though none of them are either Hindoos or Mahomedans, can be in a fit condition for the introduction of such a law, and an attempt to impose it on them, would be repugnant to the intention of the Legislature, which has made no distinction in the Charter Act between them and Hindoos and Mahomedans, when directing that regard should be had to the rights, feelings and usages of the people, without specification and without exception.

If, then, we exclude all these tribes, and leave them to enjoy their own laws and usages, the only remaining class that is important in point of number is that of East Indians. This class really wants a system of law. It has grown up from the time of the Portuguese settlers, many of whose descendents still remain in Bengal, and has been increased in modern times by the offspring of Englishmen by women of the country and their descendents, and is at present in a very anomalous position; still, the law of England would not be suitable to their condition.

Appendix A.

I would remark, on the preamble of the draft Act, that, besides not thinking that the Judges in the Company's Courts have felt any doubt as to what is now the substantive law of the place, I doubt whether it is quite correct to say, that "a practice has grown up in the Courts of the East India Company of administering to every person, not being a Hindoo or Mahomedan, in all cases not specially provided for, the substantive law of the country of such person, whenever such law is not inconsistent with equity and good conscience." I rather imagine that, in cases of persons not being Hindoos or Mahomedans, justice is administered much in the same way that it is administered to Hindoos and Mahomedans, that is, according to the dictates of equity and good conscience; and that evidence is taken, or reference is made to the best authority procurable, in order to ascertain what are the laws or customs of the litigants in matters of marriage, inheritance, dower, bequest, or any other matter in which the decision ought to be guided by the laws or customs of the litigants, whether they happen to be Hindoos or Mahomedans or not, the only difference being, that the authorities are nearer at hand, and more accessible in one case than in the other.

And with respect to the declaration in the preamble of the proposed Act, that "The Courts of the East India Company now administer English substantive law to such British subjects, whenever such substantive law is not inconsistent with equity and good conscience." As an inference might thence be drawn that no difficulty will attend the introduction of English law as the law of the place, and that our judges in the Mofussil are competent to decide controverted points of English law, I must object to any such conclusion, as I do not believe that the Company's judges generally have had any legal education or training, which would qualify them to decide such points. They must refer them for the opinion of better authority, just as they would do disputed points between Frenchmen or Armenians, Jains or Burmese.

I agree with the Law Commissioners that the diversity of laws which the East India Company's Courts may have to administer is likely to occasion inconvenience and difficulty. It has always occasioned inconvenience and difficulty, and till these shall be removed by the enactment of some general code applicable to all classes, we must submit to the evil as the necessary consequence of our position in this country.

The evil would not be removed by the introduction of a mutilated portion of the law of England, as proposed by the Law Commissioners, nor by that law, with all the improvements that it has received up to the present day. The inevitable consequence of that introduction would be, the entire dependence of the Mofussil judges on the opinions of lawyers and attorneys who, in such circumstances, must be allowed to practise in the courts of the interior, with a fair field before them for the promotion of vexatious litigation, and this evil would, in all probability, be increased by an increased number of appeals from the decisions of the Mofussil judges to the Superior Courts. A long time must elapse ere we could expect that the legal knowledge of our district judges would make them independent of such practitioners. Before the Law Commissioners recommended a measure which must lead to such consequences, it would have been satisfactory if they could have given us a report of the general effect of the introduction of English law in the Presidency towns. It is to be gathered from some of their proceedings, that their opinions on this point would not be favourable; and while they contemplate the expediency of a great reform in the entire judicial system at the Presidencies, it would seem premature to adopt their suggestion for the extension of a system which they design to reform, unless the exigency of the case was much greater than they can show it to be.

And whatever may be thought of the difficulties and inconvenience of administering a diversity of laws in the cases for which the proposed Act is to provide, it is deserving of consideration that the practice of our courts would show that we experience the same kind of difficulties and inconvenience in administering the laws of the Hindoos and Mahomedans. There are two great sects of the latter which acknowledge different tenets and interpretations of the Koran, and there are innumerable varities of usage and custom, holding the place of law, among the different tribes and castes of Hindoos. Our judges endeavour wisely and justly to decide every case that comes before them according to the law or costom of the parties engaged in it, whatever sect of Hindoos and Mahomedans they may belong to. They do the same in the cases in which the parties are not Hindoos or Mahomedans, so that really the inconvenience and difficulty for which this Act is proposed as a remedy would remain unaltered, except in a very small portion of the cases that come before the courts.

I am averse to prolong these remarks. I regret exceedingly to find myself on this occasion opposed in opinion to the Governor-general, and my other colleagues, conscious, as I am, of the legal ability and experience in which I am wanting, that are requisite for the proper handling of a difficult and intricate matter like that under consideration. But I feel, nevertheless, that I should be failing in my duty, if I were to shrink from the delivery of my opinion on this important subject, and that opinion is, that much as we require a law of common reference applicable to all orders and classes of men in this country, the law of England is not suited for the purpose, and that our wants in this respect cannot be supplied entirely but by a code framed especially for the British dominions in India.

14 June 1845. (signed) T. H. Maddock.

MINUTE by the Hon. Sir T. H. MADDOCK, Knt., dated 26 August 1845. Appendix A.

Lex Loci Act.

I SHOULD have wished, after rea ding the Minutes of the Governor-general and the members of Council on this subject, to have offered some further remarks in addition to, and in some measure in explanation of, my Minute of June 14, in order that they might have been sent to England along with all the other papers that were transmitted by the "Precursor" steamer on the 7th instant; but I had no opportunity of perusing those Minutes in time to admit of my doing so. The Governor-general's and Mr. Cameron's Minutes reached me the day before the mail was closed; those of Mr. Millett and Sir George Pollock did not reach me till it had been despatched. A wish having been expressed in Council that no delay should attend the transmission, I was compelled to defer writing anything more on the subject then, but hope to be permitted now to record the following observations, in order that they may be forwarded by the earliest opportunity to the Home authorities.

The draft Act, published on the 25th January 1845, provides, that "from and after the day of in the year 1845, the substantive law of the place, in the territories subject to the Government of the East India Company, without the local jurisdiction of Her Majesty's Supreme Courts aforesaid, shall be so much of the substantive law of England as is applicable to the situation of the people of the said territories, as is not inconsistent with any of the codes of Bengal, Madras or Bombay, or with any Act passed by the Council of India, or with this Act. What exact portion of the law of England would have been introduced under such an enactment, it would be difficult to decide. The expression, "so much of the substantive law of England as is applicable to the situation of the people," is too vague to admit of any certainty or uniformity in the interpretation that might be given to it; but there would be introduced some portion of the law of England to be administered in all the courts, in all "the territories subject to the government of the East India Company," and attended of necessity with all the forms and technicalities of the law of England; for the Act contains no provision for simplifying the forms, or for getting rid of the technicalities of the law of England.

When the Law Commissioners, in 1840, made their report on this subject, and submitted their first *Lex Loci* Act, of which the present draft is a correct version, they intimated their intention of preparing a code or codes of substantive law, as the law to be administered under the *Lex Loci* Act. It might have been well if the Government of that day had intimated to the Law Commissioners that they would postpone the consideration of the *Lex Loci* Act till it should be accompanied by the codes to be administered under it; but this was not done; and when the draft Act of 25th January 1845 was published, Government had no intimation that the codes alluded to in 1840 were completed, or in progress, or in any way commenced upon.

I had, therefore, to consider what would be the effect of the law proposed on the 25th January last, if it should be enacted, without any reference to the codes alluded to upwards of four years before, and which were to be reckoned a necessary adjunct of this Act, but of the completion of which there was no indication.

The main objection that I felt and still feel to passing this Act, before the preparation of the machinery by which it may hereafter be made to work easily and equitably, was, that it would introduce, for a time at least, and, in my opinion, most unnecessarily, a complicated and abstruse form of law, which, with our present means, it would be difficult, if not impossible, to administer; and this, too, when no pressing necessity could be shown,* and no reason was adduced, why we should not wait till we could make the measure proposed to be effected complete and perfect.

If the first artificer in the world should ask me to purchase from him a beautiful and well-finished watch-case, for which he proposed to construct the most perfect set of works that art could accomplish, and, on my declining the offer, should propose to place in the case some old-fashioned works, that he acknowledged would not keep good time, but would cause trouble by their decayed state and irregularity of movement, I might promise to purchase his watch-case as soon as the new and perfect works were put into it; but I should be foolish to buy the case without them, or to take it for use with works that would be of more annoyance and injury to me than to go without any watch at all.

On similar grounds I objected to passing the *Lex Loci* Act. And it is to be remembered, that when this measure was first proposed by the Law Commission, and a prospect was held out of their future labours being directed to preparing the codes by which this preliminary measure was to be rendered complete, that learned body consisted of three members, and a secretary, besides the honorary president; and when the draft Act was published in January 1845, the Commission was reduced to one member, without a secretary, and it was as much owing to accident as design, that the Commission had not ceased altogether to exist. Such being the case, if, between 1840 and 1845 no progress had been made in the preparation of the promised codes, and, as far as I can judge from any information before Government, they had not even been commenced upon, can it be thought surprising that I, or any person, should despair of their completion, and should conclude, that if the draft Act of 25th January 1845 became law, there would follow all the evil and difficulties which nobody denies would attend the introduction of the forms and technicalities of the English law in the Company's Courts, and this for an indefinite period.

The Governor-general supposed that under this law, "the existing Regulations would continue to be in force in the Mofussil," and the regulation law "would be administered with more simplicity and uniformity, by displacing personal laws, than it is at present;" this will be the effect to the extent prescribed in the Act; that is to say, whenever the provisions of

* *Note.*—There would have been no difficulty in ascertaining the numbers of foreigners located in the interior, and the number of cases in which they and East Indians were concerned in the Mofussil Courts.

Appendix A.

of the law of England are inconsistent with the Regulations, or with the Acts of the Legislative Council of India. When so much of the substantive law of England as is applicable to the situation of the people shall be also consistent with the law of the Regulations, it becomes, under this Act, the law of the place; and to whatever extent, be it great or small, the law of England is thus introduced, it must come attended with its own forms and technicalities till these shall be got rid of by some further enactment.

Mr. Cameron thus illustrates the effect of this Act, as maintaining Regulation law, and introducing English law: "But statutes are needed to say, arbitrarily, in what proportions the property of a deceased intestate shall be divided between his wife and children; in what number of years a demand shall be considered stale; in what number of years uninterrupted possession shall grow into a title or defence."

"Where these arbitrary rules are already provided by the Regulations, as in the two last-mentioned instances, they will continue after the enactment of the *Lex Loci*, precisely as they now are; where they are not provided by the Regulations, as in the first instance, they will be introduced by the *Lex Loci*," which is to say, that cases for which the Regulations have no rule, will be decided according to the law of England, as far as it is applicable to the situation of the people.

Now, however willing I am to introduce into our Indian legislation the equitable principles of English law on any points where our Regulations are defective, I have an insuperable objection to the introduction into the Mofussil Courts of one tittle of the forms and technicalities of procedure of the English courts of law. But these forms and technicalities are so interwoven with the system of English law, that without them it would in effect cease to be English law. The same equitable principles are to be found enunciated in the codes of most civilized nations as in our own code. If the Law Commissioners had in this Act proposed only, until their code of substantive law should be ready for enactment, to follow in certain instances the principles of English law, discarding altogether the procedure of English courts of law, the objections to passing this Act would have been greatly diminished.

But it is argued that the present *Lex Loci* Act is not a final measure. It was declared at the time of laying it before Government to be intended to frame codes of law freed from all objectionable forms and technicalities to supersede, when they should come into operation, the use of the law of England as now administered. I am perfectly aware of such intention having been entertained, and I am rejoiced to find that, although when this Act was published in January last, there was not, in consequence of the Law Commission being nearly dissolved, any solid ground for expectation that their intention could ever be realized; and I therefore discussed the merits of this Act as a measure standing by itself; there is now opening before us a good prospect of the accomplishment of the desired work at no distant period: and I agree entirely with Sir Lawrence Peel in his opinion of the expediency of postponing the enactment of the *Lex Loci* Act till that work is completed, and may form an accompaniment to the Act. Sir L. Peel says, "The *Lex Loci* Act, if accompanied by a digest of such parts of the English law as it was deemed expedient to introduce into the Mofussil, would introduce no difficulties, subtleties or technicalities whatever. It is my opinion indispensable to the success of this experiment that a digest should form a part of it, which might readily be enacted."

There can be no doubt that this is a wise and statesman-like mode of treating the question: When the digest, or the substantive law which is to be enforced under the Act, comes before Government, we shall be able to consider the two together as parts of one great consistent measure of reform. We may, if we please, call the digest a digest of English law, but it will, in reality, be a digest of law abstractedly, and is likely to be as exempt from the objectionable adjuncts of English law as from those of any other code.

To pass this Act as a preliminary step, still seems to me to be altogether premature, and not consistent with the object aimed at, unless some pressing necessity existed for such a departure from the ordinary course of legislation.

I have urged before, that no such necessity has been shown, and I may now dwell with still more reason on the same topic. Then I could not but regard the *Lex Loci* Act as a measure which, though not intended to be final, was very likely to be so. Now that we have the option of passing this Act at once without the apparatus required to render it useful or beneficial, or of waiting patiently till that apparatus is ready to accompany it, the necessity of adopting the former course should be placed beyond all doubt before we are led to select it. Our choice is between, on the one side, a written code of the laws which we propose to give to the people, expressed in plain language, with a form of procedure freed from the intricacy and expenses of the English law, and, on the other, so much of the substantive law of England as is applicable to the situation of the people, as is not inconsistent with any of the codes of Bengal, Madras or Bombay, or with any Act passed by the Council of India, or with this Act.

This explanation of my views will show that much of the objections which have been made to the arguments advanced in my Minute of June 14 are wanting in application. So far am I from opposing the complete scheme of the Law Commission, that I think it does not go far enough, and I am happy to find Mr. Cameron disposed to coincide with me in this respect. In allusion to the exception of the Hindoos and Mahomedans from the operation of the *Lex Loci* Act, Mr. Cameron, in his Minute, dated August 1st, observes, "This objection is, perhaps, too unqualified; perhaps the Hindoos and Mahomedans ought only to be excepted in respect of so much of their laws as is now administered to them under the statutes and the regulations, and brought under the *Lex Loci* for the rest."

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This sentence cannot be read without giving scope to serious reflection on the best mode of dealing with the rights of these classes on an occasion like the present. Without pretending to decide what was the abstract view taken of this subject by the Legislature in passing the Charter Act, and creating the Law Commission, there can be no doubt of this, that the further we can equitably proceed towards uniformity in our judicial institutions in India, the more fully we shall follow out the design of the Imperial Legislature. The Law Commissioners propose to except all persons not being Christians in respect of marriage, divorce and adoption, and all the native races of India in respect of any law or usage immemorially observed by them. What is there more from which we can except Hindoos and Mahomedans? I plead my ignorance for not venturing to answer this question myself; but I would suggest it as worthy of submission to those high legal authorities from whose labours we may expect a comprehensive digest of law for India, exceptions so wide as to include cases of marriage, divorce and adoption, and all other cases which may be ruled by local law or usage are as ample as Hindoos and Mahomedans now enjoy, or as any people can claim to enjoy, and such being the case, it is worthy of consideration whether there will be any necessity to mar a wise scheme of general uniformity by excepting Hindoos and Mahomedans from all other classes of men in this wide empire. My former allusion to these classes being segregated from the rest of the people by the framers of the *Lex Loci* as an objection, has, it is true, not met with any favourable reception. I shall, nevertheless, be happy to find that, on a full and candid inquiry, it may be found practicable to remove such an objection.

And I would further suggest, that in framing the digest of law, we make provision to allow the excepted classes to have their disputes decided by the general law, whenever they prefer it, to the laws or customs of their own sect, thus making all men subject to the same law, excepting when they claim exemption, and desire to have their cases decided by another law. Such a measure could hardly be considered an infringement on any man's rights, and if once introduced will lead by certain, though slow steps, to the gradual disuse of reference to the Institutes of Munnoo and Mahomet.

When we shall have given to all men, who choose to avail themselves of it, a plain and intelligible code of substantive law, providing for the easy decision of all ordinary disputes regarding rights and obligations, people in general will learn to be satisfied with the administration of such a law, and will in time cease to refer to authorities in which civil and religious duties are jumbled together, in a manner so confused and intricate as to render them unintelligible, and oftentimes contradictory, excepting in those matters to which the prejudices of sect and caste attach some degree of religious importance. In all the ordinary transactions of the world, as between man and man, people will learn to prefer submission to a known and intelligible code, made familiar to them by multiplied copies in the vernacular dialects, and by the daily practice before their eyes in the Courts of Law, to references to Pundits and Moolvees for interpretations of the hidden mysteries, or the ambiguous import of the text of the Shasters or the Koran.

These suggestions carry us so far beyond the proposition before Government, in the path towards the attainment of our object in making our laws, so far as circumstances will admit, applicable to all classes of our subjects, that, standing in some degree alone in my opinions on the subject now under discussion, I feel some diffidence in submitting them. What I recommend is at least deserving of consideration, and if it should, after due deliberation, be considered impracticable, it will be satisfactory, both for us and for our successors in office, that the questions should have been discussed before they were decided to be impracticable.

26 August 1845. (signed) T. H. Maddock.

Appendix B.

Appendix B.

PAPER referred to in the Evidence of Sir *Herbert Maddock*, 8th June, Answer to Question 2255.

MEMORIAL of the Hindoo Inhabitants of Bengal and its Dependencies to the Honourable the Court of Directors of the East India Company, to repeal Act 21, of 1850, intituled, "An Act to extend the Principle of Section 9, Regulation VII., of 1832, of th Bengal Code."

TO the Honourable the Court of Directors of the East India Company.

The humble Memorial of the undersigned Hindoo Inhabitants of the Presidency of Bengal and its Dependencies, and of the Hindoo Committee appointed at a Meeting of Hindoos, of Bengal, Behar and Orissa, held in Calcutta, on the 14th day of May, in the Christian year 1850, on behalf of themselves, the Subscribers, and others their Brethren of the same Religion, throughout the said Presidency, and its Dependencies;

Humbly sheweth,

That in the Government notifications published in the Government Gazette of the 31st of October 1849, the draft of a proposed Act was announced as having been read in Council, for the first time, on the 26th day of the said month of October, intituled, "An Act for extending the Principle of Section 9, Regulation VII, of 1832, of the Bengal Code, throughout the territories subject to the Government of the East India Company;" and finding that such proposed Act materially infringed upon an important point of Hindoo law, and upon those religious and legal rights which the Hindoos had enjoyed from the establishment in India of the British power—which they considered guaranteed to them by the Declarations and Regulations from time to time made and passed by the Local Government, legally sanctioned by the declaration of the British Parliament in Act 21 Geo. 3. c. 70, anno 1781, about seventy years ago, (when the British power was not so consolidated, so unrivalled, and so omnipotent as at present), and finally ratified by the code of Lord Cornwallis in 1793; your memorialists, or a considerable body of them, for themselves and their brother Hindoo inhabitants of Bengal, Behar and Orissa, presented a Memorial to the Most noble James, Marquis Dalhousie, Governor-general of India in Council, against the passing of the said Draft into a law, and designating such proposed Act as the first inroad upon the integrity of those laws, of which, since the country had been under the protection and government of Great Britain, the Hindoos had fondly imagined themselves secure.

It was not merely from their natural attachment to their ancient laws and usages, that (as the Barons of old objected to the alteration of the laws of England), the memorialists objected, and your present memorialists object, to the passing of the said Draft into a law, but from a deep feeling that the law of property with Hindoos is so blended with their religion, and with their belief and hopes of happiness in a future state, that the present Draft, if passed into a law, would be destructive of one of the most sacred elements of their religion, and of the present enjoyment of their domestic peace and social comfort, and that the Draft in question could not be made a law without a reckless violation, on the part of the Government, of all that is dear and sacred to every sincere Hindoo, that such Memorial was presented.

Such were the leading grounds of their objections. The memorialists, in addressing the Governor-general, answered fully every argument which has been adduced and urged by Mr. Bushby, the Secretary to the Government, in a correspondence which had previously taken place, and which arose out of another Act, which had been formerly proposed to be passed (commonly called the *Lex Loci* Act), in 1845. They clearly showed, as your memorialists conceive, that though in a regulation of the Government of Bengal, passed in 1832, which only affects and extends to Bengal, the obnoxious clause in question was to be found, which the then proposed law especially pretends merely to extend to other parts of India, yet, that the clause was so surreptitiously inserted in a Regulation (VII of 1832) totally foreign to the subject-matter of the said clause, that the nature of it was thereby practically, and, as your memorilists submit, unfairly concealed from those who were to be affected by it; that, in consequence, it had been a dead letter, and that the Inhabitants of Bengal, with few exceptions, were ignorant of it, until it was dragged to light by the proposed *Lex Loci* Act in 1845, and the correspondence to which it gave rise.

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The memorialists to Lord Dalhousie also showed, that although Mr. Bushby had endeavoured to answer the objections against such proposed Act, which had been made by the Hindoo public, both of Madras and Bengal, against the proposed *Lex Loci* Act, in the Memorials presented by such two bodies to the Supreme Government, such proposed Act was never passed into a law, and Clause 9th, Regulation VII, of 1832, continued, as it had theretofore been, a dead letter, till again wakened into life by the publication in the Government Gazette of such proposed Act, which, having since been passed into a law in manner and under the circumstances hereinafter mentioned; your memorialists now carry their respectful protest against it, and this their appeal to your Honourable Court, which the Legislature has made, in the first instance, the appellate and protective power and guardian of the rights of Her Majesty's Indian subjects, against the wrongful or injudicious legislation of the Supreme Council of India.

To the more detailed reasons for their objections to this encroachment upon their law, their just rights, and their religion, your memorialists respectfully beg to refer to the Memorial above mentioned, presented to the Marquis Dalhousie, against the passing of the Draft into a law, of which a copy is annexed hereto in the Appendix. To the contents of that Memorial they earnestly solicit the parental and protective consideration of your Honourable Court, as embodying the sentiments of your present memorialists: a repetition here would be unnecessary and improper.

Of that Memorial, the Supreme Government of India, in the plenitude of its power, did not deign to take the slightest notice; but on the 26th day of May 1850 the Draft was passed by the Legislative Council of India, and became part of the British Law of India.

Your Honourable Court will please to consider, that parties who consider themselves as, or as likely to be, personally aggrieved by any proposed law in India, have no similar power to that which is conceded in England, of carrying their objections to the bar of either of the Houses of Legislature, where the objections which they make may be heard and argued. In India the arguments, if any take place, are conducted in the Council chamber, composed entirely of Christians, with all the prejudices of Christians against any religion but their own, and with but a very superficial knowledge of the Hindoo law, or of the Hindoo religion, with closed doors, and where no voice could be heard in favour of the Hindoos, even if it would be listened to. No one who urges objections can know whether the Memorial in which they are embodied is even read, or if read, whether the objections are considered and weighed, or discussed, before the final passing of the Act is determined upon, unless some notice of the Memorial and its contents be taken by the Government to which it is presented. Your memorialists cannot but feel that eighty millions of Hindoos within the Company's territories had a right to expect that a Memorial from a considerable body of them, not framed in an improper style, or in disrespectful language, which may be supposed to have embodied, and which your memorialists are satisfied did embody, the feelings and sentiments of their race, was entitled to the courtesy and respect of, or at least some notice being taken of it by a small Christian Legislature, supposed by the memorialists to be about to commit a violation of the religion of so large a body of the subjects of Great Britain, committed to the Government of the East India Company.

Your memorialists feel also, therefore, entitled to conclude, that the refutation which they offered to the observations of Mr. Bushby, in answer to the former Memorials of the Bengal and Madras Hindoos, was considered unanswerable, and to treat the silence of Government as an acquiescence in its force; or the Government would have offered some grounds in opposition to them, instead of merely relying on the arbitrary exercise of the power possessed by the Government of British India to force the obnoxious Act upon the Hindoos inhabiting their territories, without regard to the inroad which it was calculated to make upon their religion, and the ancient and accustomed exercise of its most sacred duties, in reliance on the total inability of the Hindoo population to resist the will (however offensive the Act to their religion), of the power of Great Britain and its Government in India.

Your memorialists are well aware how the Court of Directors and the British Parliament have been constantly urged and importuned by a party which, the memorialists are told, exercises a considerable influence not only in England, but in the British Senate, to support the views and objects of the different Missionary Societies for the promotion of the Christian religion in India. Many of that party are on the spot in England, and, no doubt, prepared to urge and advance those views and objects which they have at length induced the British Legislature of India to take up and assist, at the expense and sacrifice of all those guarantees which Great Britain has, more than tacitly, held out, if not promised, for the last century, to the Hindoo race, of having their laws and their religion preserved to them inviolate. No doubt, that party in England will endeavour, by every artifice, by unscrupulous assertion, by a total misrepresentation of the case of the Hindoos, and of a pretended, not real, intolerance in their religion, by a denial and concealment, as far as in them lies, of the real effect, which this baneful measure, if attended with any success, is calculated to have on the religion of the Hindoos, of the principles of which it is a direct violation, to make use of the vantage ground they possess. Against this powerful phalanx, and the influence that it exercises, the poor Hindoos of India feel that the contest is surrounded by difficulties, and that in it they will be exposed to many annoyances and to unlimited

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unlimited abuse: that it is one requiring all their energy and courage, the Hindoos feel and admit; but your memorialists, as representing them, enter into the contest without fear.

Under the auspices of your Honourable Court—the palladium of the liberties, the rights, and the religions of the subjects of Great Britain, committed to their charge—so created, as the first resort, before recourse shall be had to the British Houses of Parliament, against the mistakes, the errors, or the oppressions which the Legislative power in India may at any time be induced to, or may inconsiderably, commit; and, with every confidence in a just sense on the part of your Honourable Court of the sacred duty entrusted to them, your memorialists feel no doubt of a patient hearing of their earnest, though distant voice—of a careful examination of the truth of the facts which they advance, and of the principles upon which the Hindoo religion is founded, and on which, for countless ages, it has rested; and of the marked distinction which, according to their tenets, exists between their religion and all others; namely, that the property of the ancestor only descends to the heir, clothed with a trust which, if from his apostacy or otherwise, the holder ceases to have the power to perform, by the most ancient law of their code, he ceases to have any interest in the ancestorial property he took upon such condition. In this hope and trust the memorialists approach your tribunal without fear or dread. They anticipate justice, and the preservation, in its purity, of the religion of their ancestors.

If these matters shall be, as your memorialists doubt not they will be, considered with attention and care, apart from prejudice—if due weight be attached to the promises, direct and indirect, held out to them by Great Britain, of the preservation of their laws, their religion, and their social habits and customs, your memorialists cannot look for any but a favourable result for the case entrusted to them, and by them now submitted to your Honourable Court, on behalf of the Hindoos of the Bengal Presidency.

When your memorialists look back, and contrast the relative position of the East India Company in India in the year 1757, in 1763 (about which time the British Government of India assumed legislative powers), from thence until and in 1781, when the Act already alluded to was passed, and at the period of the framing of Lord Cornwallis' Code in 1793, and subsequently up to a late period; when your memorialists contrast this their position during a lengthened course of years, with the position of the British supremacy in India at present, your memorialists cannot but consider that they perceive an apparent reason for the marked alteration which is now exhibited towards the Hindoos in the legislation for British India, and what characterised it at those several former periods. Your memorialists feel assured, that had there now been strong native powers ruling the Mysore, the Nizam's Territories and the Mahrattah States; had the Oude Territories, Mulwa, Gualior, the Punjab, and other native powers in central India, yet been unsubdued, and a powerful European rival had still been in occupation of a considerable portion of India, and in alliance with several native powers; as long as that state of things had lasted, the Hindoo population would never have heard of such a law being proposed by the British Government of India. The warlike Hindoos of Upper India, the industrious, trading, peaceful, Hindoos of Bengal and the Lower Provinces, would have continued too valuable, in their respective walks, to the British power, to have been treated by the Government with silent contumely, or to have had a law thrust and forced upon them, which violates every principle of their religion. With the whole of India subdued, the British rule extending from Cape Comorin to the Indus and the Himalayah range, with no external enemy to dread, those administering the Government of this country may, probably do, imagine that, at the present moment, the Missionaries in India and their friends in England, may be more worth conciliating than the Hindoo population of the country.

Some of the friends of the Government of India have endeavoured to persuade the public that the proposed *Lex Loci* Act of 1845, then not passed, was resuscitated in 1849, under the express orders and directions of your Honourable Court. This, which has never been directly stated by the Government, your memorialists do not believe. They believe it owes its restoration to life to indiscreet zealots in India, and to very much the same Jesuitical proselyting spirit in a small party, which originally suggested the introduction of this provision into a regulation foreign to it (where it might escape the light, and was only applicable to Bengal), to be brought forward at some future favourable time, and extended to all India, under the pretence that it was already the law of the Hindoos in the richest provinces in India which they inhabited. To the restless desire of this proselyting party in India and their friends in England, to press upon the Indian Government this measure, in direct violation of the injunction of the legislature, contained in 3 & 4 William 3, c. 85, sect. 53; that in any alterations which even the Law Commissioners, as the result of their inquiries, might recommend as beneficial, due regard should be had to the distinction of castes, difference of religion, and manners and opinions prevailing amongst different races, and different parts, your memorialists attribute this Act, rather than to any injunctions or orders from your Honourable Court. Your memorialists do not believe that whatever may be its parentage, it is to be looked for in the East India House. But even if your memorialists are incorrect in the supposition, they feel no dread that your Honourable Court will in any case be biassed by such circumstance, or will fail to give that consideration and weight to the facts advanced on behalf of the Hindoos, which, your memorialists hope, their loyal support at all times of the British rule, their aggregate numbers which form so large a portion of the inhabitants of British India, and the strength and justice of their case, demand at your hands.

Your

Your memorialists, for themselves and for the Hindoos of India in general, intreat your Honourable Court to ponder well before you determine upon confirming this odious law, or suffer it to remain an insult to the religion of so large a portion of native British subjects, and a festering sore which may not at once appear on the surface, but which will for ever rankle in the blood of every sincere Hindoo. It may be an object to purchase for a season, and especially at this time, the seeming friendship of an influential party in England; but it is of more consequence to England (not as concerns the Hindoos here alone, but as concerns the opinion of the world at large) to uphold and maintain that reliance upon her good faith and integrity of conduct, whether to equals or to her conquered subjects, which has ever been her proud boast, and which has hitherto won the Hindoos to the cause of the East India Company.

Whether by treaty, by direct promise, or merely by inference to be gathered in her legislative Acts or legal codes, the expectation has indisputably been raised in the Hindoos of India, that their laws would continue to be, as they have hitherto been, held inviolate by the British Government. In this belief the Hindoos of Bengal and of Madras have loyally, as a body, given their support to the British Government in their rise to supreme power in India for nearly a century. Your memorialists would respectfully ask, is it right?—is it fair?—is it honourable?—is it British?—that, standing on the pinnacle of their power, one of the first acts of their consolidated rule should be to pass an Act most offensive to, and in direct violation of, the religion of the most numerous and most loyal body of their subjects (to whose industry, to whose wealth, to whose intelligence, at least, the Government owes so much of its rise), in the vain hope of conciliating a faction to whom they owe nothing, but turmoil and disturbance (without any real success to themselves) in India—a faction which will no sooner have gained this sacrifice to their weight, and influence, and importunity, than they will call upon your Honourable Court to direct your Government of India to promote their views and objects by every open or secret means which their mistaken zeal and bigotry can suggest.

Against the Memorial presented to Lord Dalhousie, the only serious charge made has been the repetition of the cries of "illiberality," "persecution," and "intolerance," against its promoters—cries which are easily raised, and carry with them the prestige of their sound and the heart of every Englishman, until on examination they appear to be misused: such is the case in this instance. If due regard be "had to the distinction of castes, difference of religion, and the manners and opinions prevailing among different races and in different parts of the subdued territories," this law cannot be confirmed and allowed by your Honourable Court. The promoters of this measure apparently class Mahomedans and Hindoos together in the principles and practice on which the supposed "forfeiture" of property is founded, and upon which it depends. In this they pay no regard to the "distinction of castes, difference of religion, and the manners and opinions prevailing among different races." There is no similitude between the manners and opinions prevailing amongst Mahomedans and Hindoos, as is shown at more length in the Memorial presented to the Marquis Dalhousie. The Mahomedans are a fierce proselyting sect of religionists; with them defection from their religion, by one who ever professed it, is a crime. An apostate not only thereby forfeited all his property, but his life also, if he did not return to the faith in four days. Not so the Hindoos: they seek, they make, and take, no proselytes. To be a Hindoo, a man must be by birth and long descent (beyond tradition) a Hindoo. Again and again your memorialists assert that there is no "illiberality," no "persecution," no "intolerance" in Hindoos, or in the Hindoo religion, or in their opposition to this Act. It is "persecution," it is "illiberality," it is "intolerance," it is "tyranny" and oppression against Hindoos to pass this Act, for it is, and it is intended to be, an attack, a direct attack upon their religion. It is intended to be an undermining weapon in the hands of the "illiberal," "persecuting," and "intolerant" missionaries and their party, to aid and assist their crusade against the Hindoo religion. They vainly expect that with this weapon in their hands they will be able to overcome the whole Hindoo religion, and that it will at least assist them in gaining proselytes. Your memorialists entertain no fears of its having any, or if any, extensive effect; it has had none in Bengal, where it is said to have (secretly) been the law since 1832, although wherever it has any, it will destroy the very principles upon which, in the ideas of Hindoos, all property of the ancestors comes to the heir, and will make the haunts of the missionaries more than ever the hot-bed of dissension, domestic strife, and the violation of every cherished notion of the Hindoos, and of their religion, and of their social and domestic peace and comfort. The general accusations against the Hindoo religion, which were advanced against them by their opponents, are very fully met in the Memorial to Lord Dalhousie. Your memorialists most confidently and anxiously refer to them; but they are so anxious to meet, to combat, and to disprove these charges, and to show the difference between the Hindoo and Mahomedan religions on this point, that they venture, at the risk of being accused of needless repetition, to state here some of what they consider the main points of their case. The nature of the intolerance and persecution of the Mahomedan religion is fully stated in the former Memorial, and has been briefly alluded to in this. At present your memorialists confine themselves to the absence of the one or the other of them, in that of the Hindoos. In the first place, however, they are anxious, whilst they distinctly put forward as the main and really the only ground of the objection to it, that their religion is vitally attacked and violated by the law in question, to have it clearly understood that this differs most essentially from the case of the abolition of the Suttee, against which a somewhat similar argument was used. A very considerable portion

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(the great majority of Hindoos) certainly looked upon the rite of the Suttee as enjoined by the Shastras; others did not. Many of your memorialists now entertain, as they then held, discordant opinions on that question. But it is not the intention of your memorialists to discuss the case of the Suttee in any way.

In the present case there is no discordance of opinion, there is no difference, there can be no difference amongst Hindoos; and in the Memorial presented to Lord Dalhousie (the sentiments of which your memorialists are but desirous to echo or repeat), not one maxim of their religion has been advanced but what rests on translations from the books of the first authorities in their religion, which are found in those English writers who at former periods have made the Hindoo religion and law their study, and which are accessible to all Englishmen. The chief authorities on which the memorialists relied being to be found in Sir Edward Colebrooke's Digest; Sir William Jones' Institutes of Munoo; the Dayabhaga Mitakshara, &c., and other well-known works on Hindoo law translated into English.

It is a well-known fact, that in the Suttee case Lord William Bentinck brought forward the Regulation for its abolition, distinctly on the ground, that the Suttee was not enjoined by the Shastras as incumbent on Hindoo widows as a substantive part of the Hindoo law; but that the practice of it was merely spoken of by several sages as a praiseworthy act in a Hindoo widow. This was contested by the great majority of Hindoos who held it to be enjoined by the Shastras; but such was the ground taken by Government and Lord William Bentinck, who considered that, as the destruction of life was in direct opposition to other precepts of the Hindoo Shastras, the permission of self-immolation, which was opposed to the opinions of mankind in general, ought to be done away with. In the present case all Hindoos are unanimous in considering that this law is a violation of their religion: all the Hindoo law-books clearly and distinctly show that the Hindoos only advance, what cannot be denied, that the Act in question does directly seek to annihilate one of the fundamental principles of their religion.

The first question for inquiry is, what is the proposition contended for by your memorialists? It is this: "that no forfeiture of property which a Hindoo has acquired by his own exertion or by gift, is created by his being converted to any other religion;" in fact, that no forfeiture arises thereon in any case, but that an incapacity is thereby by himself voluntarily created to continue to hold the property which he derives by inheritance, and hold on condition, a condition which he is no longer able to perform; why is this? As more fully stated in the former Memorial to Lord Dalhousie, every Hindoo when he inherits property, whether a son of the body or by adoption, takes an estate coupled with a condition, which, if he by his own act (or in some cases owing to the visitation of the Almighty) cannot perform, he cannot continue to hold the property. The benefit which by the Hindoo religion (the due performance of its worship) is conferred upon all the ancestors of the deceased, by a meritorious service to their memory of the rites enjoined by the Shastras, by virtue of which alone the party in possession holds the property, is no longer conferred. The performance by a person of any other religion, or of any inferior caste, would be a desecration of the rite and place of worship, and an impiety injurious, instead of beneficial (according to the belief of Hindoos) to the departed souls of their ancestors. But as the Hindoo religion attaches the utmost importance to the perpetuity of male heirs, and the performance by them of these sacred rites, it has provided, that on the incapacity of the direct or other heir in possession to perform the duties attached to the property, he is incapacitated from holding it, and the property derived from his ancestor or ancestors by inheritance passes (as if the holder were then to die) to the next heir in succession; but if this ancestorial property be worth 20 or 2,000 or 200,000 Rs., or whatever that value may be, this, and this only, is what he ceases, as incapacitated, to hold. He has committed no crime punishable by Hindoo law; he has not incurred any attainder. If the holder by trade, by arms, by erudition or by labour, or in any way, has made by his own exertions 20 lacs of rupees, or any sum whatever, he does not lose that. No forfeiture is created by his apostacy. The Hindoo religion and the Hindoo law, in whatever light they may look upon conversion, does not treat it as a crime; on conversion a Hindoo is simply blotted out from the Hindoo community. His relatives and friends lament him as a lost sheep from their fold, and look upon him as dead; they hold no converse with him. It is possible that they may not think his chance of happiness in that future state and other world (in which all Hindoos most devoutly believe) is greater than some bigoted Christians believe, will be the fate of all who do not believe in the religion which Christians profess. If connected with the apostate, his Hindoo friends would consider that they were to a certain degree debased by his apostacy from the religion of his ancestors; the latter alone, in the belief of Hindoos, would be injured thereby. To obviate that injury, as far as possible, the Hindoo law provides, that all property, which the apostate derived from his ancestors, goes, upon his apostacy, to the next male heir capable of performing the duties which attach to it. In this your memorialists are unable to discover the alleged "illiberality," "persecution," or "intolerance" of the Hindoos. But if it be so, it arises from the Hindoo law being founded, as to this point, on, and directly blended with, their religion; and this Act cannot be passed without directly assailing it. If such be the law and religion of Hindoos, handed down to them from the remotest antiquity, and tolerated without alteration by their Mahomedan conquerors (in practice, whatever be their theory), where is the "illiberality," the "persecution," or the "intolerance,"

"intolerance," which should induce the British Government thus to annihilate a main principle of the religion of Hindoos, which was left untouched by the less liberal and more intolerant government of the Mahomedans? It is an article of their faith, received from their ancestors from the remotest antiquity, arising out of, founded at the same time with and forming part of their religion; why is it illiberal to desire to maintain that principle, which, as blended with and springing out of their religion, they conceive to be essential to its maintenance in purity and integrity, and essential to uphold and to promote the eternal happiness of the ancestors of those Hindoos who may possibly be affected by this law if passed and confirmed? Finally, is it more or less than a Protestant minister being compelled, on becoming a member of the church of Rome, to vacate his cure? he is incapacitated from holding it, and yet it may be his own property, as your memorialists are told. It may be his own living to which he may have presented himself, but he held the property subject to its being held by a Protestant divine, who should administer the Protestant rites which for a time he was capable of administering; by his apostacy he incapacitated himself from a continuance of those duties. He incurs no other forfeiture than from incapacity, no punishment; so the Hindoo. A Hindoo derives property from his ancestors to be held by him on the condition, that (and as long as) he shall perform certain duties for the benefit of his departed ancestors, he shall hold his ancestors' property; he voluntarily disqualifies himself from the ability to perform them. Then he ceases to have any right to the property, and the next heir takes it by law. He, as the Protestant clergyman, incurs no punishment, and loses nothing which he has earned for himself. Your memorialists submit, then, that the "illiberality, the persecution, the intolerance," of such a provision of the Hindoo laws is not more than that which deprives the Rev. Mr. A., a Protestant divine, when he becomes a Roman-catholic priest, from further continuing to hold the living, which otherwise he would have enjoyed for his life; and the difference between Catholic and Protestant is only the difference between two sects of the same religion. But the Protestant divine converted to the Romish church must give up his living, even though he himself, as already observed, was the patron of the living: for he had in it only a trust for the benefit of that sect of the Christian religion from which he has seceded, and he is no longer capable to perform the worship according to the Church discipline of the sect he quits. So must the Hindoo for the self-same reason: he merely holds the property subject to a sacred trust. He had not an absolute property in it, and must give it up, therefore, as incapacitated to perform the duties attached to it to one who is not.

In a country which professes to despise the religion of the Hindoos, and the inhabitants of which are profoundly ignorant of the real tenets of the religion professed and believed in by Hindoos, and of the general ordinances of the law by which for ages they have been governed and directed; in a country, which in no way entertains, or is capable of forming a just or fair estimate of the devout feeling with which pious Hindoos address themselves to the various incarnations of the sole God of the Universe in which they believe, whilst they apparently seem only to address the image, (which is presented to them merely as the symbol of such incarnation); it would be worse than useless, and might be construed into disrespect to the Christian religion professed by their rulers, to enter into discussions which would not, and could not, be appreciated in the meridian of London. They enter therefore into no discussion which is not necessary to show the connexion of this proposed law, and of the law which the promoters of it now seek to abrogate, with the principles of their religion, of which, since the obscurest ages of antiquity, it has formed an integral part, and without which, its entirety would be destroyed, and the fundamental principle upon which all succession to property and the hopes of Hindoos attaining future bliss is mainly founded, would be violated. But your memorialists are strongly impressed with the necessity which there is, that in a matter which so nearly, so closely, so vitally, affects those most valued and sacred rights, the Hindoos of the Bengal Presidency should be represented by some one who has lived some years in India, and has, at least, a general knowledge of the habits, manners, customs and feelings of Hindoos, and an intimate knowledge of the extent to which their laws are blended with, and in many respects founded on, their religion. Under this feeling, your memorialists generally have requested Mr. John Farley Leith, late a member of the bar of the Supreme Court in Calcutta (who has kindly consented to act for them), to take charge of the case of the Hindoos of Bengal in general, and of your memorialists in particular, and to become their advocate. For that purpose they have constitufed, and by this their Memorial, testified by their subscription to this Memorial, do constitute him their agent and attorney, to support and urge this their Memorial, and if allowed, to advocate those rights at the bar of your Honourable Court, and if need be, to carry up the same to the Government and Parliament of Great Britain, where at least, if compelled to go, your memorialists are informed their humble Memorial may be heard at the bar of either, or both, of the Houses of the British Legislature.

In the apprehensions, the fears, the sentiments of the memorialists to Lord Dalhousie, as expressed by them, your memorialists desire to express their entire concurrence. That the lasting and pernicious effect which this measure, if forced upon the Hindoo community, will have upon their minds and feelings towards the British Government, will be such as described by the memorialists to Lord Dalhousie, your memorialists can entertain no doubt; but they look for better things at the hands of your Honourable Court. They feel every confidence in the solicitude which must be felt by your Court for the maintenance of the Government of the extensive territories committed to your charge, in peace, happiness, and general confidence and satisfaction. Of the many races inhabiting them, the Hindoos

Appendix B.

are by far the most numerous. Should this inroad upon their religion be allowed by your Honourable Court, your memorialists expect no outbreak at present—no present disturbance—but they expect, and they would not do their duty as loyal subjects of the British Crown, if they did not candidly state their belief, that if this odious attack upon the Hindoo religion shall become an acknowledged act of British Indian law, Her Majesty will have eighty millions of Hindoo subjects in India dissatisfied and discontented—rendered so by an Act of the Legislature of India, passed for the sake of courting a small, though influential party in Great Britain, which the Legislature of India probably thought might be useful and necessary at this period, when the renewal of the Charter of the East India Company was a question about to be discussed.

That this feeling of dissatisfaction and discontent may not be excited in so large a portion of Indian British subjects, your memorialists most sincerely hope, and, therefore, most earnestly pray, that your Honourable Court will be pleased to disallow, and to signify to the Governor-general of India your disallowance of the said Act, No. XXI., of 1850, passed by the Legislative Council of India, intituled, "An Act for extending the Principle of Section 9, Regulation VII., of 1832, of the Bengal Code, throughout the Territories subject to the East India Company;" and your memorialists further pray, that if Section 9 of the said Regulation of 1832 of the Bengal Code is now in force as part of the Code of Bengal, and has the theoretical effect which the Indian Government appear to suppose it to have, and is capable of application to the Hindoos of Bengal, that your Honourable Court will be pleased to disallow such last-mentioned clause, and to order and direct the Governor-general of India to pass an Act repealing the said Section 9 of that Regulation, as subversive in principle of those rights, and of that law which, founded on their religion, they have enjoyed from time immemorial; and of the continuance of which the local Government and the Parliament of Great Britain have, at least, held out the most unequivocal assurances, and as a clause passed in 1832 in so silent and concealed a manner, that it was unknown to, and unsuspected by, the great mass of the Hindoo population, until many years after it was passed, and which has remained a dead letter, and inoperative from 1832 to 1850.

And your memorialists shall ever pray.

Appendix C.

PAPER delivered in by Sir H. Maddock.

Scholarship Examinations of the Government Colleges and Schools in Bengal, for 1850–51.

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PUBLIC EXAMINATIONS OF 1851.

The papers on the various subjects were prepared by the under-mentioned gentlemen :—

ENGLISH SCHOLARSHIPS.

Senior.

English Essay	J. Kerr, Esq., M.A.
Rhetoric	R. Jones, Esq.
Literature Proper	J. Kerr, Esq., M.A.
History	H. Woodrow, Esq., M.A.
Pure Mathematics Mixed Mathematics	R. Thwaytes, Esq.
Vernacular Essay	The Rev. K. M. Banerjea.
Latin Essay	H. Woodrow, Esq., M.A.

Junior.

English Grammar	A. S. Harrison, Esq., B.A.
History	G. Lewis, Esq.
Geography	W. Brennand, Esq.
Mathematics	V. L. Rees, Esq.
Translation	Babu Ramchunder Mitter.
Literature	Dr. F. J. Mouat.

ARABIC SCHOLARSHIPS.

Calcutta Mudrissa, Senior and Junior Hooghly Mudrissa, Senior and Junior	Dr. A. Sprenger.

SANSCRIT SCHOLARSHIPS.

Senior and Junior: Major G. T. Marshall.

The senior and junior scholarship answers were examined by the gentlemen who set the questions.

The Arabic and Sanscrit scholarship answers were examined by the Principal of the Calcutta Mudrissa, and by Major G. T. Marshall.

I. The scholarship examinations of all the Colleges and Schools in Bengal were held upon the dates and at the hours specified below :—

Dates. 1851.	Subjects. *Senior Scholarships.*	*Junior Scholarships.*
Wednesday, 17 Sept.	Literature Proper	Grammar.
Thursday, 18 Sept.	Mental and Moral Philosophy	History.
Friday, 19 Sept.	History	Mathematics.
Saturday, 20 Sept.	Pure Mathematics	Geography.
Monday, 22 Sept.	Mixed Mathematics	Translations.
Tuesday, 23 Sept.	English Essay	Literature.
Wednesday, 24 Sept.	Vernacular or Latin Essay.	

The examinations were held daily from 10 A.M. to 1½ P.M., and from 2 to 5½ P.M. precisely, at which hours all answers to the morning and afternoon papers respectively were given in.

II. The

II. The following is the manner in which the examinations are conducted :— Appendix C.

1. Sets of questions on the various branches of study in the senior and junior departments are prepared by the examiners selected by the Council of Education.

2. In Calcutta one of the members of the Council of Education presides at the examination of each day; in the Mofussil a member of the Local Committee performs the same duty; each is furnished with copies of the scholarship questions under a sealed cover, with a superscription specifying the subject of the contained paper, and the day on which it is to be opened in the presence of the scholarship candidates.

3. The students assemble in a room without books, papers or references of any kind, are not allowed to communicate with each other during the examination, and on that account are placed at a proper distance from each other.

4. They are required to answer the questions, and to write the essays, without any assistance whatever: to ensure this, one of the members of the Council remains in the room, and superintends the whole examination.

5. Any attempt at, or practice of unfair means, subjects the offending party to a fine of 100 rupees in cases of senior, and 50 rupees in cases of junior scholarships: non-payment of the fine within one month subjects the offender to exclusion from the Institution till payment, and no offender is capable of then or again competing for any scholarship.

6. At the hour fixed for the close of each day's examination, every student delivers his answers, signed by himself, to the superintending member of the Council or Local Committee.

7. The examiners fix an uniform standard of value for each question, according to its importance. A perfectly correct and complete answer obtains the full number of marks attached to the question; an imperfect answer obtains a part only of the full number, in proportion to its approximation to correctness and completeness.

8. The award of scholarships is determined in accordance with the rules laid down in the late Honourable J. E. D. Bethune's Minute on the subject, published in the Annual General Report of the Council for 1849-50, p. 6.

9. No student, not being already a scholarship-holder, or a free scholar, is allowed to compete for a scholarship whom the Principal of the College, or the Head Master of the School to which he belongs, does not consider competent to attain the requisite standard.

FRED. J. MOUAT, M. D.
October 1851. Secretary to the Council of Education.

Appendix C.

SCHOLARSHIP QUESTIONS.

Senior Scholarships, 1851.

LITERATURE PROPER.

For the Senior Classes—Morning Paper.

HAMLET.

Marcellus. " 'Tis gone!
We do it wrong, being so majestical,
To offer it the show of violence;
For it is, as the air, invulnerable,
And our vain blows malicious mockery.

Bernardo. It was about to speak when the cock crew.

Horatio. And then it started like a guilty thing
Upon a fearful summons. I have heard
The cock, that is the trumpet to the morn,
Doth with his lofty and shrill-sounding throat
Awake the god of day; and, at his warning,
Whether in sea or fire, in earth or air,
The extravagant and erring spirit hies
To his confine: and of the truth herein
This present object made probation.

Marcellus. It faded on the crowing of the cock.
Some say, that ever 'gainst that season comes
Wherein our Saviour's birth is celebrated,
The bird of dawning singeth all night long:
And then, they say, no spirit dares stir abroad;
The nights are wholesome; then no planets strike,
No fairy takes, nor witch hath power to charm.
So hallow'd and so gracious is the time.

Horatio. So have I heard, and do in part believe it.
But, look, the morn, in russet mantle clad,
Walks o'er the dew of yon high eastern hill:
Break we our watch up; and, by my advice,
Let us impart what we have seen to-night
Unto young Hamlet: for upon my life,
This spirit, dumb to us, will speak to him:
Do you consent we shall acquaint him with it,
As needful in our loves, fitting our duty?"

1. " For it is, as the air, invulnerable,
And our vain blows malicious mockery."

What is the meaning of the last line?

2. "The cock, that is the trumpet of the morn,
Doth with his lofty and shrill-sounding throat
Awake the god of day."

Explain this. Illustrate the passage by quotations from other poets.

3. "And at his warning,
Whether in sea or fire, in earth or air,
The extravagant and erring spirit hies
To his confine."

What popular belief is alluded to in the line

"Whether in sea or fire, in earth or air"?

In what sense do you understand the words "extravagant" and "erring"? In what significations are they more frequently used?

4. "And of the truth herein,
This present object made probation."

What is the meaning of "made probation"? Of what truth did the object make "probation"?

5. " Some

5. "Some say, that ever 'gainst that season comes
Wherein our Saviour's birth is celebrated,
The bird of dawning singeth all night long."

What is the name of that season, "wherein our Saviour's birth is celebrated"?
What bird is it which is here called "the bird of dawning"?
Explain the grammatical construction of the words "'gainst that season comes."

6. Explain the lines, "then no planets strike,
No fairy takes, nor witch hath power to charm,
So hallow'd and so gracious is the time."

What circumstance made the time "so hallow'd and so gracious"?

7. "But look, the morn, in russet mantle clad,
Walks o'er the dew of yon high eastern hill."

Turn these lines into plain prose.

Quote a similar description of "morn" from Shakespear himself, or from Milton.

8. Explain

"As needful in our loves, fitting our duty."

9. Give a correct paraphrase of the following passage, substituting, in every instance, common expressions for those which are figurative:

"So, oft it chances in particular men,
That for some vicious mode of nature in them,
As, in their birth (wherein they are not guilty,
Since nature cannot choose his origin),
By the o'ergrowth of some complexion,
Oft breaking down the pales and forts of reason;
Or by some habit, that too much o'erleavens
The form of plausive manners; that these men,
Carrying, I say, the stamp of one defect;
Being nature's livery, or fortune's star,
Their virtues else (be they as pure as grace,
As infinite as man may undergo),
Shall in the general censure take corruption
From that particular fault."

BACON'S NOVUM ORGANUM.

Afternoon Paper.

APHORISM 59.

"But none are so troublesome as the idols of the market, which insinuate themselves into the mind from the association of words and terms. For though men believe that their reason governs words, it also happens that words retort, and reflect their force upon the understanding; whence philosophy and the sciences have been rendered sophistical and unactive. Words are generally imposed according to vulgar conceptions, and divide things by lines that are most apparent to the understanding of the multitude: and when a more acute understanding, or a more careful observation, would remove these lines, to place them according to nature, words cry out and forbid it. And hence it happens that great and serious disputes of learned men frequently terminate about words and terms, which it were better to begin with, according to the prudent method of the mathematicians, and reduce them to order by definitions. But in natural and material things, even these definitions cannot remedy the evil; because definitions themselves consist of words, and words generate words."

APHORISM 73.

"But of all the signs of philosophies, none are more certain and noble than those taken from their fruits; for fruits, and the discoveries of works, are as the vouchers and securities for the truth of philosophies.

"And, therefore, as it is a caution in religion that faith be manifested by works, an admirable rule may be hence derived into philosophy that it be judged by its fruit, and held as vain if it prove barren; and this the more, if, instead of grapes and olives, it produce the thistles and thorns of disputes and altercations."

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1. "For though men believe that their reason governs words, it also happens that words retort and reflect their force upon the understanding."

Explain this sentence, and point out the concealed figure in the latter part of it.

2. "Words are generally imposed according to vulgar conceptions, and divide things by lines that are most apparent to the understanding of the multitude." Explain this, and show that the opinion is correct. What is the meaning of "words cry out"?

3. Does not the objection that "definitions consist of words, and words generate words," apply to the terms used in mathematics as well as to those which denote "natural and material things"? Or is there any fundamental difference between the two subjects, which makes the objection apply to one of them, but not to the other?

4. "For fruits and the discoveries of works are as the vouchers and securities for the truth of philosophies." Give some examples in illustration of this truth.

5. What things are meant by the figurative expressions "grapes and olives" and "thistles and thorns"? Give examples from History of systems of philosophy which, instead of "grapes and olives," have produced "the thistles and thorns of disputes and altercations."

6. In one place Bacon says, "The sovereignty of man lieth hid in knowledge; wherein many things are reserved which kings with their treasure cannot buy, nor with their force command; their spials and intelligencers can give no news of them, their seamen and discoverers cannot sail where they grow." Explain this passage.

7. What, according to Bacon, is the true "end" or object of the sciences? What other end or object has been proposed by some other writers? Show that that other object did not escape Bacon's observation, and that he purposely kept it in the back ground.

8. Mention some of the leading principles of the first book of the Novum Organum.

Fourth Class.

GRAY'S POEMS.

Ode to Adversity.

Morning Paper.

"Thy form benign, oh goddess! wear,
Thy milder influence impart,
Thy philosophic train be there
To soften, not to wound my heart.
The generous spark extinct revive,
Teach me to love and to forgive,
Exact my own defects to scan,
What others are to feel, and know myself a man."

Elegy.

"Perhaps in this neglected spot is laid,
Some heart once pregnant with celestial fire;
Hands, that the rod of empire might have sway'd,
Or wak'd to ecstacy the living lyre:

"But knowledge to their eyes her ample page
Rich with the spoils of time did ne'er unrol;
Chill penury repressed their noble rage,
And froze the genial current of the soul."

The Bard.

"Girt with many a baron bold
Sublime their starry fronts they rear:
And gorgeous dames, and statesmen old
In bearded majesty appear.
In the midst a form divine!
Her eye proclaims her of the Briton line;
Her lion-port, her awe-commanding face,
Attemper'd sweet to virgin-grace.
What strings symphonious tremble in the air,
What strains of vocal transport round her play!
Hear from the grave, great Taliessin, hear;
They breathe a soul to animate thy clay.
Bright Rapture calls, and soaring as she sings,
Waves in the eye of heaven her many-coloured wings.

"The verse adorn again
Fierce war, and faithful love,
And truth severe, by fairy fiction drest.

In

In buskin'd measures move
Pale grief, and pleasing pain,
With horror, tyrant of the throbbing breast.
A voice, as of the cherub choir,
Gales from blooming Eden bear;
And distant warblings lessen on my ear,
That lost in long futurity expire."

1. "Thy milder influence impart."
What two things are compared?

"Thy philosophic train be there."
What are those fruits of adversity which the Poet calls her "philosophic train"?

2. "Teach me to love and to forgive."
Give the full meaning of this line.

Explain clearly and concisely the two following lines:
"Exact my own defects to scan,
What others are to feel, and know myself a man."

3. What is the meaning of "celestial fire"?

Explain the line—
"Or wak'd to ecstacy the living lyre."

4. "Rich with the spoils of time."
What are "the spoils of time" which enrich the "ample page" of knowledge? Show that the word "ample" is well chosen.

5. "For who, to dumb forgetfulness a prey,
This pleasing anxious being e'er resign'd,
Left the warm precincts of the cheerful day,
Nor cast one longing, lingering look behind?

"On some fond breast the parting soul relies,
Some pious drops the closing eye requires;
Even from the tomb the voice of nature cries,
Even in our ashes live their wonted fires."
Explain the two lines in *italics*. What is the meaning of "this pleasing anxious being"?

6. "In the midst a form divine!
Her eye proclaims her of the Briton line."
What celebrated Queen of England is alluded to? Was she of "the Briton line," and why does the Bard refer with satisfaction to this circumstance?

7. "What strings symphonious tremble in the air,
What strain of vocal transport round her play!"
To what circumstance in the reign of this Queen does the Poet allude? Point out any beauties of expression in these lines.

8. "The verse adorn again
Fierce war, and faithful love,
And truth severe in fairy fiction drest.
In buskin'd measures move
Pale grief, and pleasing pain,
With horror, tyrant of the throbbing breast."
What Poets are alluded to? Point out the words which most clearly mark what particular Poets are meant.

9. "A voice, as of the cherub choir,
Gales from blooming Eden bear."
Explain these two lines, and point the application of "cherub choir" and "Gales from blooming Eden" to the particular Poet referred to.

FOURTH CLASS.

COLLINS.

ODE TO FEAR.

Afternoon Paper.

"In earliest Greece, to thee, with partial choice,
The grief-ful Muse addrest her infant tongue;
The maids and matrons, on her awful voice,
Silent and pale, in wild amazement hung.

Appendix C.

"Yet he, the bard who first invoked thy name,
Disdained in Marathon its power to feel;
For not alone he nursed the poet's flame,
But reached from virtue's hand the patriot's steel.

"O Fear, I know thee by my throbbing heart,
Thy withering power inspir'd each mournful line,
Though gentle pity claim her mingled part,
Yet all the thunders of the scene are thine."

ODE TO THE PASSIONS.

"But thou, O hope! with eyes so fair,
What was thy delighted measure?
Still it whispered promised pleasure,
And bade the lovely scenes at distance hail!
Still would her touch the strain prolong,
And from the rocks, the woods, the vale,
She called on Echo still through all the song."

RASSELAS.

"Wherever I went, I found that poetry was considered as the highest learning, and regarded with a veneration somewhat approaching to that which man would pay to angelic nature. And yet it fills me with wonder, that, in almost all countries, the most ancient poets are considered as the best: whether it be that every other kind of knowledge is an acquisition gradually attained, and poetry is a gift conferred at once; or that the first poetry of every nation surprised them as a novelty, and retained the credit by consent which it received by accident at first; or whether, as the province of poetry is to describe nature and passion, which are always the same, the first writers took possession of the most striking objects for description and the most probable occurrences for fiction, and left nothing to those that followed them but transcription of the same events, and new combinations of the same images. Whatever be the reason, it is commonly observed, that the early writers are in possession of nature, and their followers of art; that the first excel in strength and invention, and the latter in elegance and refinement."

1. "In earliest Greece, to thee, with partial choice,
The grief-ful muse addrest her infant tongue."

What is the meaning of "partial choice" and "addrest her infant tongue"? Why does the Poet say "earliest" Greece?

2. "For not alone he nursed the poet's flame,
But reach'd from virtue's hand the patriot's steel."

Explain these two lines.

3. "Though gentle pity claim her mingled part,
Yet all the thunders of the scene are thine."

In what does Pity "claim her mingled part"? What are "the thunders of the scene"

4. "But thou, O Hope! with eyes so fair,
What was thy delighted measure"?

State in your own words the Poet's reply to this question.

5. "O Music! sphere-descended maid,
Friend of pleasure, wisdom's aid."

Explain in what sense Music is the "friend of pleasure," and in what sense it may be called "wisdom's aid."

6. "Wherever I went I found that poetry was considered as the highest learning," &c.

What reasons are given by Dr. Johnson in this paragraph to account for the fact that in almost all countries the most ancient poets are considered as the best? Are there any other reasons?

7. Give the meaning of the following clauses:
"Approaching to that which men would pay to angelic nature."
"Knowledge is an acquisition gradually attained, and poetry is a gift conferred at once."
"The province of poetry is to describe nature and passion."
"The most probable occurrences for fiction."

8. "It is commonly found that the most ancient writers are in possession of nature, and their followers of art; that the first excel in strength and invention, and the latter in elegance and refinement."

Explain this passage, and give illustrations of it from the history of English Poetry.

MENTAL

MENTAL PHILOSOPHY.

10 A.M. TO 1½ P. M.

1. What is meant by laws of mind? Name some of the most general of these laws, and explain how they are ascertained.
2. State briefly the principal causes which have retarded the progress of mental science.
3. Mention the different senses in which the word "Reason" is used; und distinguish between Intuition and Reasoning.
4. What, according to Stewart, is the essential distinction between the axioms and the definitions of Geometry, and how does he illustrate this distinction?
5. What is meant by Fundamental Laws of belief? What analogies or coincidences are traceable between them and the axioms of Geometry?
6. Define the term Abstraction. In what way are general terms formed? Explain the nature of the aid they afford in general reasoning.

Thursday, September 18, 1851.

2 to 5½ P. M.

1. Stewart remarks, that, in order to arrive at a general conclusion in Mathematics and the other sciences, two different processes of reasoning are neccssary. Explain them.
2. The field of mathematical demonstration being limited entirely to hypothetical truths, whence arises the extensive utility of mathematical knowledge in physical researches and in the arts of life?
3. After telling us that "laws, in their most extensive signification are, the necessary relations which arise from the nature of things, and that in this sense all beings have their laws;" Montesquieu proceeds to remark, "that the moral world is far from being so well governed as the material; for the former, although it has its laws, which are invariable, does not observe these laws so constantly as the former." Point out the fallacy contained in the above passage.
4. Distinguish between the logical and the popular meaning of the word Probability.
5. Explain the difference between the evidence of experience and that of analogy; and show that there are two kinds of general notions essentially different from each other.

FOR THE FOURTH CLASS.

10 A.M. to 1½ P.M.

1. Explain clearly the object of Mental Science.
2. What is the origin of our knowledge of facts relative both to matter and mind?
3. What are the primary objects of vision? How do we acquire our notions of distance and magnitude?
4. Define Reflection. To what heads would you refer the knowledge which we derive from this source?
5. What are the principles by which a man of cultivated mind is influenced in receiving upon testimony statements which are rejected by the vulgar as totally incredible?
6. What are the evils likely to arise from such indulgence in works of fiction?

2 TO 5½ P.M.

1. Define Reason. Explain and illustrate the distinction between intuitive and discursive reasoning.
2. What is meant by First Truths? Upon what evidence do they rest, and by what characters are they distinguished?
3. Explain the meaning of necessity as applied to the operation of moral causes.
4. What are the elements into which any particular piece of reasoning may be resolved?
5. State briefly the rules to be observed in deducing a general principle.

HISTORY.

ARNOLD'S LECTURES.

Morning Paper.

8. Were the revolutionary party in France consistent in magnifying the names of Brutus and Cato?
9. Is the popular party always a movement party? Support your answer by examples.
10. What does Arnold mean when he says, "it is a fatal error in all political questions to mistake the clock"?

Illustrate it by the great quarrel between the Guelfs and Ghibelines.

Appendix C.

11. What were the principles of the three great parties in England at the close of the sixteenth centure?

12. Why was the cause of revolution more popular in France than in England?

13. Shew that there was no inconsistency in the popular party in England supporting the war of 1703 and opposing that of 1793.

14. Shew by examples the necessity in an historian of an earnest craving after truth and utter impatience not of falsehood merely, but of error.

Afternoon Paper.

1. Where does Arnold place the commencement of modern history, and why so?

2. "Well might Niebuhr protest against the practice of making quotations at second-hand, instead of going to the original source."

Illustrate this remark from the mistakes into which three celebrated modern writers have been led from one garbled extract.

3. "I wished to give an example of what I meant by a real and lively geography," &c. Describe Italy in this manner.

4. Shew that the general tendency of the last three centuries has been to consolidate small independent states into large kingdoms.

5. Trace the "centres of action and resistance" in Europe during the last three centuries.

6. Does history justify the belief of an inherent superiority in some European nations over others?

7. On what grounds does Arnold advocate the expediency of a standing army?

ELPHINSTONE'S HISTORY OF INDIA.

Morning Paper.

1. Draw a Map of India, shewing
   (1.) The basins of the principal rivers.
   (2.) The parts still covered by unexplored forests.
   (3.) The two highest peaks of the Himalaya range.
   (4.) The territorial limits of the chief languages now spoken.
   (5.) The supposed localities of some of the great towns before the Moohummudan invasion.

2. What regulations in the code of Menu with respect to war and the treatment of women shew a humane disposition on the part of the Hindus?

3. Describe an Indian township, and the duties of its principal officers.

4. How does Elphinstone sum up the arguments on the question of "right of property in the soil"?

5. Give a sketch of the evidence on which it is asserted that the names Sandracoptus and Chandragupta refer to the same person.

6. Describe the steps by which Mr. Prinsep was enabled to decipher the inscription on Firuz Shah's column.

Afternoon Paper.

7. What is the general character of the Hindu drama?

8. Point out the extent of the commerce of the Hindus in early times.

9. On what grounds does Tod suppose that some of the Rajput tribes are of Scythian descent?

10. Shew by a table the states which existed in India before the Moohummudan conquest, and where they are first and last mentioned.

11. Give the date and some of the circumstances of the invasion of India by Cassim.

12. In which of his expeditions did the Sultan Mahmud plant the first permanent garrison of Moohummudans beyond the Indus. Give an account of the storming of Somnauth.

MATHEMATICS.

First Class.

DIFFERENTIAL AND INTEGRAL CALCULUS.

Morning Paper.

(1.) Having given $u = o$ a relation between x and y, shew how to find the differential co-efficient of y with respect to x, find $\frac{dy}{dx}$

from $y\,e^{ay} = ax^m$ and from $y = \cos^{-1}\frac{\sqrt{a^2 - x^2}}{b^2 - x^2}$

and if $y = \cos mx$ find $\frac{d^n y}{dx^n}$

(2.) Apply

(2.) Apply the method of limits to find the equation to a straight line which touches the curve at a given point.

Find the asymptotes to the curve $y^3 = ax^2 + x^3$

(3.) Shew how to determine the value of a vanishing fraction in all cases

(1) $\dfrac{\sqrt{a} - \sqrt{x} + \sqrt{a-x}}{a - \sqrt{2ax - x^2}}$ when $x = a$

(2) $\dfrac{\text{Sin}^m\theta - \cos\left(m\frac{\pi}{2} - n\theta\right)}{\sin n\theta + \cos\left(\frac{n\pi}{2} + m\theta\right)}$ when $\theta = o$ m be a whole number of the form $4p + 1$ and n of the form $4p + 3$.

(4.) Shew how the maximum and minimum values of a function of one variable may be determined.

If this method be applied to find those conjugate diameters in an ellipse, of which the sum is a maximum or a minimum, it appears to fail in the latter case. Explain the cause of this.

(5.) Explain the transformation of the independent variable, and transform the equation $\frac{d^2y}{dx^2} - \frac{x}{1-x^2}\frac{dy}{dx} + \frac{y}{1-x^2} = o$, where x is the independent variable, into one where θ is the independent variable, θ being equal to $\cos -1x$

If R represent the radius of curvature, it may be proved equal to $\dfrac{dS^2}{\sqrt{(d^2x)^2 + (d^2y)^2}}$ where x and y are co-ordinates of a point in the curve, and S the length of it.

(6.) If AP be any curve referred to a pole S; find the differential expression for the area; and if u be the solid generated by the revolution of the area ASP, about AS, $SP = r$ and the angle $ASP = \theta$.

$$\text{Shew that } \frac{du}{d\theta} = \tfrac{2}{3}\pi r^3 \sin\theta$$

(7.) Shew that $-\dfrac{d\theta}{du}$ is the polar subtangent of a curve, u being the reciprocal of the radius vector; and there is generally a point of inflexion where $u + \dfrac{d^2u}{d\theta^2} = 0$.

Find the asymptotes and points of inflexion in the curve whose equation is $r = a\dfrac{\theta}{\sin\theta}$ and trace the curve.

(8.) Integrate the following expressions:

$$\frac{dx}{(a^2 + x^2)^{\frac{3}{2}}}, \quad \frac{xdx}{(x^2 + a^2)(x^2 + 5a^2)}, \quad \frac{x\sqrt{x}\,dx}{(1 + x^2)}, \quad \frac{x^3dx}{(\log x)^{\frac{1}{2}}}$$

Find the value of $\int_{o}^{\frac{\pi}{4}} dx\,(\tan x)^n$

(9.) What is meant by integration between limits? When the function to be integrated changes its sign between the limits, how is the true value of the definite integral to be found?

Trace and find the area of the curve $r = a(2\cos\theta - 1)$.

Second Class.

GEOMETRY OF TWO DIMENSIONS, AND NEWTON.

Morning Paper.

(1.) Shew how to draw a straight line by means of its equation, both when the co-ordinate axes are rectangular and oblique, the angle between the axes being 108°—draw the straight lines.

$$(1)\ y = \frac{\sqrt{5}+1}{2}(x - a),\ (2)\ y = \frac{\sqrt{5}-1}{2}x + a,\ (3)\ x + y = \frac{3 + \sqrt{5}}{2}a$$

and shew that if (1) and (3) be produced to meet the axes, and (2), the lines intercepted between the origin and the successive points of intersection, will form a rectangular pentagon.

(2.) If $\frac{x^2}{a^2} + \frac{y^2}{b^2} = 1$ be the equation to an ellipse (hk) a given point, what does the equation $\frac{hx}{a^2} + \frac{ky}{b^2} = 1$ represent, (1) when (hk) is in the circumference of the ellipse, (2) when without it, (3) when within it.

 (3.) Define

Appendix C.

(3.) Define an hyperbola, and thence find its polar equation, the centre being pole. If the transverse axis be indefinitely increased, the hyperbola passes into a parabola.

(4.) If a right cone be cut by a plane, find the equation by the section, and shew that it will be an ellipse, hyperbola or parabola.

(5.) Shew that the equation to the parabola referred to any two tangents as axes may be put under the form $\sqrt{\frac{x}{a}} + \sqrt{\frac{y}{b}} = 1$ where a and b are portions of the tangents between the curve and their intersection.

(6.) Explain the mode of reasoning by which Newton determines the ratio of quantities which vanish together; and prove that the ultimate ratio of the arc, chord and tangent to each other is one of equality.

(7.) Enunciate Lemma XI. What is meant by saying that every curve of finite curvature is ultimaiely a parabola? How is this proved?

(8.) If a body revolve round a fixed centre of force, the areas described by lines drawn from the body to the centre of force lie in one plane, and are proportional to the times of describing them.

Point out the laws of motion assumed in the proof of this proposition.

(9.) State Kepler's laws; and enunciate the various propositions in Newton by means of which they may be deduced from the theory of universal gravitation.

(10.) A body moves in a parabola, to find the law of force tending to the focus, and compare its velocity at any point with that of a body moving in a circle radius $= SP$, and described round the same centre of force.

THIRD CLASS.

THEORY OF EQUATIONS AND CONIC SECTIONS.

Morning Paper.

(1.) Show that the equation whose roots are

$$\text{Cos}\ \frac{\cos -1a}{3},\ \cos\ \frac{2\pi + \cos -1a}{3},\ \cos\ \frac{2\pi - \cos -1a}{3}$$

$$\text{is } x^3 - \tfrac{3}{4}x - \frac{a}{4} = 0.$$

(2.) An equation must have an even number of impossible roots, or none. How far is this true of irrational possible roots? Having given one root of the equation $x^4 - 6x^3 - 48x - 11 = 0$ is $2 + \sqrt{5}$ solve the equation.

(3.) If $f(x)$ be a rational and integral function of x; explain the formation of its successive derived functions; show that an odd number of roots of $f'(x) = 0$ lies between every two possible roots of $f(x) = 0$, and that if

$$f(x) = 0,\ f'(a) = 0,\ f''(a) = 0, \ldots f^{(r)}(a) = 0$$

$$f(x) \text{ is divisible by } (x-a)^{r+1}$$

(4.) Investigate a method for finding the commensurable roots of an equation whose co-efficients are rational. If the constant term have many divisors, how may the operation be shortened?

Solve the equation $x^5 - 3x^4 - 9x^3 - 91x^2 - 10x + 24 = 0$.

(5.) An equation of m dimensions has n equal roots, shew how to find them. Solve the equation

$$x^4 + 13x^3 + 33x^2 + 31x + 10 = 0 \text{ which has 3 equal roots.}$$

(6.) Give Waring's method of separating the roots of an equation, *ex.* $x^3 - 11x + 11 = 0$.

(7.) If from either extremity QVQ' of a parabola a perpendicular QD is let fall on the diameter, then ($QD^2 = 4AS.PV$.)

(8.) In the ellipse the rectangle under the abscissæ of the axis major is to the square of the semiordinate, as the square of the axis major to the square of the axis minor ($AN.NM : PN^2 = AC^2 : BC^2$)

(9.) The rectangle under the perpendiculars drawn from the foci of an hyperboia on the tangent is equal to the square of the semi-axis minor ($Sy.Hz = BC^2$)

(10.) In the hyperbola parallelograms formed by the tangents at the vertices of pairs of congregate diameters have all the same area.

FOURTH

Appendix C.

FOURTH CLASS.

EUCLID AND ALGEBRA.

Morning Paper.

(1.) In any right angled triangle, the square which is described upon the side subtending the right angle is equal to the squares described upon the other two sides which contain the right angle.

Is this proposition included in any more general one?

(2.) To divide a given straight line into two parts, so that the rectangle contained by the whole and one of the parts, shall be equal to the square of the other part.

Can this be solved arithmetically? If so, find approximately into how many parts the given line must be divided.

(3.) Prove that the opposite angles of any quadrilateral figure which can be inscribed in a circle are together equal to two right angles.

(4.) If a straight line be drawn parallel to one of the sides of a triangle, it shall cut the other sides or those produced proportionally, and if the sides or the sides produced be cut proportionally, the straight line which joins the point of section shall be parallel to the remaining sides of the triangle.

Hence shew how a line may be drawn on the ground through a given point, parallel to a given straight line by means of a piece of string.

(5.) Every solid angle is contained by plane angles, which together are less than four right angles.

(6.) A person who had a $9\frac{1}{2}$ anna share in an Indigo factory, made his younger brother a present of 75 per cent. of his share, and sold the remainder to his cousin, who soon after purchased $\frac{1}{7}$ of the younger brother's share, but now offers to dispose of half his interest in the factory for Rs. 7,000. Estimating at the same rate, what was the value of the whole factory, and each brother's share?

(7.) If a and b be two integral numbers prime to one another and the product $a + c$ be divisible by b, show that c must be divisible by b.

Find the form of the denominator of a vulgar fraction in its lowest terms when it is reducible to a terminating decimal. Is $\frac{51}{120}$ so reducible?

(8.) To extract when possible the cube root of a binominal surd, one of whose terms is a rational quantity, and the other a quadratic surd.

Ex. $\quad -4-10\sqrt{-2}$

(9.) Solve the equations

$$\frac{a^3+x^3}{a+a}+\frac{a^3-x^3}{a-x}=4a^2 \quad \text{- - - - - - - - (1)}$$

$$(x^2+1)(x+2)=2 \quad \text{- - - - - - - - (2)}$$

$$\left.\begin{aligned}\frac{m}{x}+\frac{n}{y}&=a\\ \frac{n}{x}+\frac{m}{y}&=b\end{aligned}\right\} \quad \text{- - - - - - - - (3)}$$

In equation (3) explain the result when the values of x and y assume the form of $\frac{0}{0}$

(10.) Insert m harmonical means between a and b.

The distance between Calcutta and Barrackpore is 14 miles; now if a single stone were laid upon every yard of that distance, and the first one was a yard from the basket, what distance would a man travel in bringing the stones one by one to the basket?

(11.) *Write* down the number of variations of m things taken r and r together.

Find the greatest term in the expansion of $(1+x)^m$ without regard to sign m being positive and x a proper fraction. Will the same investigation hold when m is negative?

(12.) Find the amount of an annuity, left unpaid for m years, at simple interest.

Explain why it is not consistent with the principle of simple interest to consider the amount of an annuity to be sum of the present values due at the periods 1, 2, 3, ... m, years.

(13.) Investigate a rule for forming the consecutive converging fractions.

How may converging fractions be employed to find the logarithm corresponding to any number?

Appendix C.

First Class.

DIFFERENTIAL AND INTEGRAL CALCULUS.

Afternoon Paper.

(1.) If u v be functions of x, prove the theorem :

$$\frac{d^n(uv)}{dx^n} = \frac{d^nu}{dx^n} + n\frac{dv}{dx}\cdot\frac{d^{n-1}u}{dx^{n-1}} + \frac{n(n-1)}{1.2}\cdot\frac{d^2v}{dx^2}\cdot\frac{d^{n-2}u}{dx^{n-2}} + \&c.$$

Show that $\left(\frac{d}{dx} - a\right)^n \int(x) = \varepsilon^{ax}\left(\frac{d}{dx}\right)^n - \varepsilon^{ax}\int(x)$

(2.) Within a given parabola inscribe the greatest parabola, the vertex of the latter being at the bisection of the base of the former.

(3.) Investigate a differential expression for the radius of curvature, and shew that it is identical with Newton's expression,

$$\tfrac{1}{2}\text{ limit }\frac{(\text{arc})^2}{\text{subtense}}\text{ when the tangent }\perp$$

In the curve $y = \frac{c}{2}\left(\frac{x}{c} \mp \frac{x}{c}\right)$ the ordinate at any point is a mean proportional to the radius of curvature there and at the point $x = 0$.

(4.) Define the evolute of a curve. Investigate the property on which it depends; find the evolute to the cycloid.

(5.) Determine the nature of the curve whose equation is $y^3 + x^3 - ax^2 = 0$, find the maximum ordinate, and point of inflexion. Trace and find the area of the curve whose equation is

$$x^4 + y^4 - a^2xy = 0$$

(6.) If in the radius vector SP of a parabola, (the vertex of which is A, and Sy the perpendicular from the focus S upon a tangent at P) a point Q be taken, such that $SA : Sy = SQ : SP$, find the equation to the curve which is the locus of Q; trace the curve, and show that the areas of the curve and parabola between the *vertex* and the *latus rectum* of the parabola are as 3 : 4.

(7.) Shew how to find the length of a curve referred, (1) to rectangular co-ordinates, (2) to polar co-ordinates. Prove that the length of the curve whose equation is $x^{\frac{2}{3}} + y^{\frac{2}{3}} = a^{\frac{2}{3}}$ intercepted between the axes of x and y is $\frac{3a}{2}$

(8.) Find the volume of the solid generated by the revolution, about the axis of x, of th lemniscata the equation of which is

$$(x^2 + y^2)^2 = a^2(x^2 - y^2)$$

Second Class.

Afternoon Paper.

(1.) State the steps in the reasoning by which it is shewn that $f(x + h)$ admits of development in a series proceeding by ascending positive and integral powers of h.

(2.) If (u) be a function of y, y a function of x, $\frac{du}{dx} = \frac{du}{dy}\cdot\frac{dy}{dx}$ Employ this proposition to differentiate by *substitution* the function. $\overset{x}{\underset{a}{\overset{k\cdot}{\underset{b.}{}}}}$

Required the differentials

$$\overset{x\sqrt{-1}}{\underset{\varepsilon}{}} \quad \overset{-x\sqrt{-1}}{\underset{-\varepsilon}{}}$$

$$\text{hyp. log. }\sqrt{\frac{a^2-x^2}{a^2+x^2}}\cdot x^{mx} \text{ and } 2\sqrt{-1}\,(\varepsilon^{x\sqrt{-1}} + \varepsilon^{-x\sqrt{-1}})$$

(3.) Define a multiple point, and show from the definition that if $\frac{dy}{dx}$ be obtained from the equation to the curve made free of radicals, the co-ordinates of the multiple point will make it assume the form $\frac{0}{0}$

Take as an example the curve $x^2y^2 = a^2(x^2 - y^2)$, and determine the direction of its branches at the multiple point.

(4.) A curve is convex or concave to the axis of x, according as $\frac{d^2y}{dx^2}$ has, or has not, the same sign as the ordinate.

Determine

Determine the minimum value of $(x-a)^m$ m being odd.

(5.) Find the differential expression for the radius of curvature, and shew that it agrees with Newton's.

If y and x be functions of a third variable θ, the expression for the radius of curvature is

$$\frac{\left\{\left(\frac{dx}{d\theta}\right)^2+\left(\frac{dy}{d\theta}\right)^2\right\}^{\frac{3}{2}}}{\frac{dy}{d\theta}\cdot\frac{d^2x}{d\theta^2}-\frac{dx}{d\theta}\cdot\frac{d^2y}{d\theta^2}}$$

determine what this expression becomes when θ is the arc of the curve.

(6.) Trace the curves defined by the equations

$$y=x\sqrt{\frac{x^2-a^2}{x^2+a^2}},\quad y=x\sqrt{\frac{x^2+a^2}{x^2-a^2}},\quad y=x\sqrt{\frac{a^2+x^2}{a^2-a^2}}$$

(7.) Investigate the differential expression for a surface of revolution; and find the surface generated by the revolution of the lemniscata, the polar equation of which is $r^2=a^2\cos 2\theta$.

(8.) Find the locus of the intersection of the perpendicular, drawn from the vertex, and tangent to any point of a parabola. Trace the curve and find the area between the curve and its asymptote.

(9.) Integrate $\int\frac{x}{x(a+bx^3)^{\frac{5}{3}}}\int\frac{x^3}{x(a^2+x^2)^n}\int\theta\sin m\theta\cos n\theta$.

Make the integral of $\int\frac{1}{x(a^2+x^2)^n}$ depend on that of $\int\frac{1}{x(a^2+x^2)^{n-1}}$

(10.) Obtain the integral of $\int\frac{1}{x\sqrt{a+bx+cx}}$

Third Class.

THEORY OF EQUATIONS AND CONIC SECTIONS.

Afternoon Paper.

(1.) Shew how to transform an equation into one which shall want the second or third term; under what circumstances can both be made to disappear at one operation?

Form an equation of six dimensions having the co-efficients of the 2d and 3d term so related that they can both be taken away at one operation.

(2.) The limiting equation must always have as many possible roots as the original wanting one.

Hence prove that if m consecutive terms be wanting in an equation, it cannot have more than $(n-2m.)$ possible roots. How many possible roots can the equation $x^n-ax^2+b=o$ have?

(3.) Give Cardan's method for the solution of a cubic equation.

Shew that it fails when all the roots are *real*, and succeeds when two roots are *imaginary*, or when all real but *two equal*.

Ex. $x^3-3x^2-3x-7=o$.

(4.) If several roots of an equation lie between two consecutive integers, how may Sturm's Theorem be applied to find an approximation to each?

Find by this method an approximate value of a root of the equation $x^3-x^2-5=o$. Correct to three places of decimals.

(5.) Explain Newton's method of approximating to the roots of an equation, and shew when it may safely be applied.

Obtain an approximate value of a root of $x^3+4x^2-1=o$. Correct the two places of decimals.

(6.) Define the asymptotes of an hyperbola. If any straight line Qq perpendicular to either axis of an hyperbola meet the asymptotes in Q and y and the curve in P, the rectangle $QP.\ Pq$ is invariable.

(7.) In the Ellipse the sum of the squares of the conjugate diameters is constant ($CP^2+CD^2=AC^2+BC^2$.) If the normals at P and D intersect in K, shew that KC is perpendicular to PD.

(8.) If any chord AP through the vertex of an hyperbola be divided in Q so that $AQ:QP=AC^2:BC^2$, and QM be drawn perpendicular to the foot of the ordinate MP, shew that QO at the right angles to QM cuts the transverse axis in the same ratio.

Appendix C.

FOURTH CLASS.

EUCLID AND ALGEBRA.

Afternoon Paper.

(1.) Upon stretching two chains, AC, BD, across a field $ABCD$, I find that BD and AC make equal angles with DC, and that AC makes the same angle with AD, that BD does with BC. Hence prove that AB is parallel to CD.

(2.) Determine the regular polygons which by juxta-position may fill space about a point, all of them being situated in the same plane. What advantages arise from the honeycomb consisting of hexagonal cells.

(3.) ABC is an equilateral triangle; E, any point in AC; in BC produced take $CD = CA$, $CF = CE$; AF, DE, intersect in H.

$$\frac{HC}{EC} = \frac{AC}{AC + EC}$$

(4.) If three clocks were regulated to go in the following manner; being set at 12 o'clock at noon on the first of January 1852; the first to keep the exact time, the second to gain a minute, and the third to lose a minute per day; what day, month and year would they meet again at the same hour.

(5.) Shew how to transform a number from one scale of notation to another. Having given 16·34 in the octenary scale and ·0545 in the senary, find their product in the undenary scale. Find the area of the rectangle 4 yards, 1 foot, 2 inches long, 3 yards, 2 feet, 4 inches wide.

(6.) Find the sum of the series.

$$mn + (m-1)(n-1) + (m-2)(n-2) + \ldots\ldots\ldots$$

Hence find the number of balls in an incomplete rectangular pile, of 22 courses, which contain 68 balls in the length and 44 in the breadth of the bottom row.

(7.) Expand a^x in a series ascending by powers of x.

Shew that

$1 + 1 + \frac{1}{1\cdot2} + \frac{1}{1\cdot2\cdot3} + \frac{1}{1\cdot2\cdot3\cdot4}$ + &c. to infinity is convergent, and that its limit cannot exceed 3.

(8.) An urn contains 20 balls, 4 of which are white,
If a person draw 5 at a venture, find
(1.) The probability of drawing only one white ball.
(2.) The probability of drawing at least one white ball.

(9.) If the terms of the expansion $(a + b)^m$ be multiplied respectively by the quantities $m, \frac{m-1}{r-1}, \frac{m-2}{r-2}$ . . and m be a whole number, find the sum of the resulting series.

(10.) Find the present value of a scholarship of Rs. 40 per month (payable monthly), the enjoyment of which is to commence 5 weeks from this date, and to continue for 12 months, at 5 per cent. simple interest.

(11.) A railway train, after travelling for one hour, meets with an accident which delays it one hour, after which it proceeds at $\frac{3}{5}$ths of its former rate, and arrives at the terminus 3 hours behind time; had the accident occurred 50 miles further on, the train would have arrived one hour and twenty minutes sooner; required the length of the line.

FIRST CLASS.

OPTICS.

Morning Paper.

(1.) Define a pencil of rays, converging rays, diverging rays, and the focus of a pencil of rays.

If diverging or converging rays be reflected at a plane surface, the foci of the incident and reflected rays are on contrary sides of the reflector, and equally distant from it.

Why does the common looking glass give more than one image at a point?

(2.) Find the geometrical focus and aberration for a pencil of rays converging to a given point between the centre and principal focus of a convex mirror, and shew that, whether the rays be divergent or convergent, the aberration is towards the mirror.

(3.) A small pencil of rays is incident obliquely on a concave refracting surface; find the positions of the focal lines, and show for what values of u the primary focus is further from the surface than the secondary, drawing the requisite figures.

(4.) Find the deviation of a ray after two successive reflections at plane mirrors inclined to each other at a given angle, the course of the ray lying in a plane perpendicular to their line of intersection.

What

What must be the first angle of incidence that at a third reflection the course of the ray may be exactly reversed?

(5.) If a ray of light passes through a glass prism, shew that it is bent towards the thicker part of the prism, and that the deviation $= (\mu - 1)r$ when the reflecting angle r, and the angle of incidence are both small. Hence deduce the position of the principal focus of a double convex lens.

Why is $\frac{1}{f}$ called the power of the lens?

(6.) Find the principal focus of a refracting sphere. How may a sphere be used as a microscope?

(7.) What is the dispersive power of a transparent medium, and how is it measured? What is a table of dispersive powers? Give a short account of irrationality of dispersion, and secondary and tertiary spectra.

(8.) Having given two concave mirrors and two convex lenses, the focal length of the former being 4 feet and 4 inches, and of the latter 3 inches and 1 inch respectively, construct a Gregorian telescope with Huyghen's eye-piece, and find the magnifying power.

(9.) Explain what is meant by a lens equivalent to a system of lenses.

Two lenses whose focal lengths are $3l$ and l, have a common axis, and are separated by an interval $2l$; if the axis of a pencil of rays crosses the axis of the lenses at a distance$=120l$ from the first, determine the focal length of the equivalent lens, and compare its effect with that of each of the lenses taken singly.

(10.) In the simple astronomical telescope shew when the apertures of the two lenses are proportional to their focal lengths, the field of view (as seen by single pencils) is a single point.

If the simple astronomical telescope be adjusted to an ordinary eye, what change must be made to suit a short-sighted person?

Second Class.

HYDROSTATICS AND SPHERICAL TRIGONOMETRY.

Morning Paper.

(1.) What is the principle of the transmission of fluid pressure? How far is it necessary to prove it by experiment? When a body is immersed in a fluid, prove that the pressure of the surrounding fluid acts every where in a normal to the surface.

(2.) Explain the phenomena of reciprocating springs, and show that they will not reciprocate in very wet or very dry weather.

(3.) The surface of a fluid at rest is a horizontal plane. If a vessel be filled with oil and water, explain why they will not mix, and show that their common surfaces will be horizontal.

(4.) Find the pressure of a fluid upon any plane surface immersed in it, and the point of application of the single resultant force. Compare the pressure on the side and on the base of a regular tetrahedron (or solid bounded by four equilateral and equal triangles) when immersed in a fluid.

(5.) A body floats in water; find the condition of equilibrium.

A cylinder with its axis vertical floats in two fluids of different densities; find the ratio of two parts into which the cylinder is divided by the common surface of the two fluids.

(6.) Describe Nicholson's Hydrometer, and the mode in which it is used in practice.

(7.) Describe the process of filling and graduating a mercurial thermometer. Are the lowest points the same under all circumstances? What point in Reaumur's and in Centigrade scale correspond to 44° Fahrenheit.

(8.) The sum of the angles of a spherical triangle is greater than two right angles, and less than six. Show that the angles at the base of an isosceles triangle are equal.

(9.) Express the cosine of an angle of a spherical triangle in terms of the cosines and sines of the sides.

(10.) Prove Napier's rules for the solution of a right angled triangle when one of the sides is the middle part. Having given one side and an angle opposite to it, solve the triangle, and explain whether there is any ambiguity.

(11.) Given the angles of a spherical triangle, shew how to find its area.

Third Class.

STATICS.

Morning Paper.

(1.) How is force estimated in Statics? A horizontal prism or cylinder will produce the same effect as if it were collected at its middle point.

(2.) If several forces in the same plane tend to turn a body round a fixed point, and keep it

Appendix C.

it in equilibrium, the sum of the moments of the forces tending to turn it in one direction is equal to the sum of the moments of those tending to turn it in the other.

How does the moment of a force measure its effect to turn it round a fixed point?

(3.) Assuming the parallelogram of forces, determine the resultant of any number of forces in the same plane acting on a point.

At any point in the circumference of a circle, two equal forces act in directions passing through two fixed points on the circumference. Shew that the resultant of these forces passes through a fixed point.

(4.) Find the ratio of the power and weight in that system of pullies where each hangs by a separate string (1) when the strings are parallel (2) when they are inclined to the horizontal bar at angles θ_1, θ_2, θ_3, &c., respectively.

Suppose the number of parallel strings to be 8, and 1, 2, 3, &c. inches, their respective distances from each other, find where the weight must be attached to the cross bar in order that it may be horizontal: the weights of the pullies being taken into consideration.

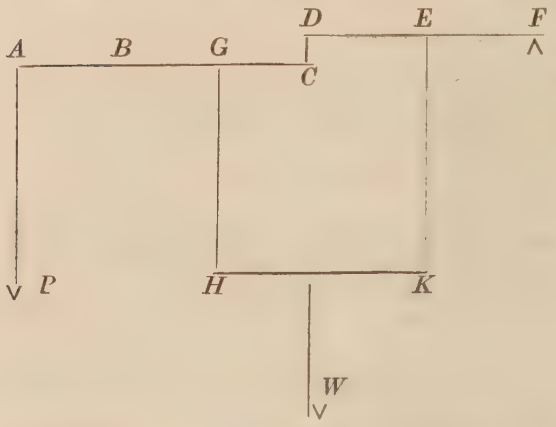
(5.) Explain the term virtual velocity; and apply it to find the condition of equilibrium on the screw. Would it be applicable if there were no friction between the outer and inner screw?

(6.) All couples tending to turn a system in the same direction, are statically equivalent whose planes are parallel and moments equal.

How are couples estimated numerically, and why?

(7.) Find the distance of the centre of gravity of the frustum of a cone from the base; a and b being the radii of the two ends, and c the altitude of the frustum.

(8.) $ABGC$, DEF, are two horizontal levers without weight, B and F their fulcrums, the end D of one lever rests upon the end of C of the other, Hk is a rod without weight suspended by two equal parallel strings, from the points E and G. Prove that a weight P at A will balance a weight W placed anywhere on Hk.



if $\frac{EF}{BG} = \frac{BG}{BC}$ and $\frac{P}{W} = \frac{BG}{AB}$

(9.) A uniform rod rests on a smooth fulcrum with one end on a rough horizontal plane, show that the extreme position in which it will rest is given by the equation

$$a \sin 2\theta \sin (\theta + a) = 2h \sin a.$$

$2a$ being the length of the rod h, the height of the fulcrum above the plane and $\mu = \tan a$.

FOURTH CLASS.

PLANE TRIGONOMETRY.

Morning Paper.

(1.) Explain the principle by which the signs of the Trigonometrical lines in the different quadrants are determined; and from this give the proper signs to the tangent, secant, and versed sine in the third quadrant.

(2.) Expand cos $(A-B)$ when A is > 180, and $< 270°$, and B of the form $(180-C)$, where C is $> 45°$. Construct the figure for the quadrant in which the angle $(A-B)$ may be situated.

(3.) Find the number of degrees both French and English in an arc, which is equal to the length of the radius.

Find the length of an arc subtending an angle of $11° 9' 36''$ in a circle whose radius is 50 yards.

(4.) Pro

(4.) Prove the following formulæ—

(1.) $\tan^2 A - \tan^2 B = \dfrac{\sin(A-B)\sin(A+B)}{\cos^2 A \cdot \cos^2 B}$

(2.) $\dfrac{1+\sin A}{1+\cos A} = \frac{1}{2}(1+\tan\dfrac{A}{2})^2$

(3.) $\dfrac{\sin 3A + \cos 3A}{\sin 3A - \cos 3A} = \dfrac{2\sin 2A + 1}{2\sin 2A - 1}\tan(45 - A)$

adapt the formula (3) to radius (r).

(5.) Express $\sin\dfrac{A}{2}$ and $\cos\dfrac{A}{2}$ in terms of the sides of a triangle.

and explain the meaning of the double sign in both results.

(6.) Prove Demoivre's theorem when the index is fractional, and shew that it has as many values as units in the denominator of the index.

(7.) Express the length of an arc in terms of its tangent, and apply the formula to obtain a rapidly converging series for calculating π.

(8.) A person standing at the edge of a river observes that the top of a tower on the edge of the opposite side subtends an angle of 55° with a line drawn from his eye parallel to the horizon; receding backwards 30 feet, he then finds it to subtend an angle of 48°. Determine the breadth of the river.

log. sin 7° = 9·08589
log. sin 35° = 9·75859
log. sin 48° = 9·87107
log. 3 = ·47712
log. 1·0493 = ·02089

(9.) Having given the logarithm of two consecutive numbers to find the logarithm of a number next superior.

Construct a table of proportional parts by which the logarithms of all numbers between 3·75450 and 3·75460 may be computed, and prove the process.

(10.) Show fully how to construct a table of natural sines.

What is the use of formulæ of verification? Prove one.

First Class.

ASTRONOMY.

Afternoon Paper.

(1.) Define the terms *Pole of the heavens, Meridan, Zenith, Equator.* What two causes principally prevent the line joining the centre of the earth with a point on its surface from being, in general, the vertical line at that point? At what point on the Earth's surface is it vertical.

(2.) Explain the cause of the change of the seasons. In different years are they of different lengths?

(3.) Describe the transit instrument and the errors of adjustment to which it is liable.

Find the azimuthal deviation from the meridian of a transit instrument, from the observed superior and inferior transits of the same circumpolar star.

(4.) Enumerate the different methods of finding the latitude of a place on the Earth's surface.

Show how to find the latitude and hour angle, from two altitudes of the sun and the time between.

(5.) What different kinds of time are employed in Astronomy?

When is it $0^h\ 0^m\ 0^s$ according to each. What is Equinoctial Time?

Given the length of the mean tropical year equal to $365^d\ 5^h\ 48^m\ 51{\cdot}6^s$, find the length of the sidereal day.

(6.) Explain the physical causes of the Precession of the Equinoxes. And shew that the precession of a star in right ascension in t years

$$= t50''.2\,(\cos\omega + \sin\omega\tan\delta\sin\alpha.)$$

(7.) Explain the cause of Astronomical refraction, and the effect produced by it on the apparent positions of the heavenly bodies.

Determine the *coefficient* of refraction from observations of circumpolar stars.

(8.) What is parallax? Express the parallax of a heavenly body in terms of its distance from the earth, its observed zenith distance, and the radius of the earth.

Find by Simpson's rule, and approximately the greatest proportional error which would arise in putting sin p = p, cos. p. = 1 supposing the greatest horizontal parallax of the moon to be 1°.

Appendix C.

(9.) Explain the cause of aberration. By whom was it discovered and, in what manner? By what observations had the velocity of light been previously determined?

Shew how to find the aberration of a given star in latitude and in right ascension.

(10.) What is the equation of time? Explain the cause to which it is principally due. Shew that whatever be the position of the perihelion of the earth's orbit, it must vanish four times a year.

(11.) What is the reason that in tropical climates the twilight generally is very short compared with its duration in higher latitudes?

Find at what times of the year the twilight is shortest, and its duration then in London, the latitude being 51° 30′, assuming that near the equinoxes (March 21, September 22,) the sun moves with a motion in declination of 23′ daily.

Given log. tan.	$9^\circ = 9{\cdot}19971$	log. sin.	$9^\circ = 9{\cdot}19433$
log. sin.	$51^\circ\ 30' = 9{\cdot}89354$	log. cos.	$51^\circ\ 30' = 9{\cdot}79415$
log. sin.	$7^\circ\ 7' = 9{\cdot}09304$	log. sin.	$14^\circ\ 33' = 9{\cdot}40006$

Second Class.

PROBLEMS.

Afternoon Paper.

(1.) It is found that on mixing 63 pints of sulphuric acid, whose specific gravity is 1·82, with 24 pints of water, one pint is lost by their mutual penetration; find the specific gravity of the compound.

(2.) Suppose a vessel one foot long, nine inches wide, and $1\frac{3}{4}$ feet deep, to be filled with water to $\frac{1}{125}$ of the top: what sized cube whose specific gravity is $\frac{1}{5}$ heavier than water, should be placed in it to make the water reach the brim.

(3.) A cylinder floats in water, its base being 4 inches below the surface, when an ounce weight is placed upon it it sinks another inch; shew that its weight is 4 ounces.

(4.) A person employs three sets of men to pump the water from a well which is 20 feet deep and 6 feet in diameter; the pressure of the atmosphere being equal to a column of water 32 feet in height—and the pump discharges 1017·8784 cubic inches of water at every stroke. How must they divide the work so that each may do an equal share of it, supposing the well to be quite full at the commencement, and that the first set of men finish their work previous to the commencement of the second, and the second before the third.

(5.) Two conjugate diameters are produced to intersect the same directrix of an ellipse, and from the point of intersection of each one a perpendicular is drawn on the other, prove that these perpendiculars will cut one another in the nearer focus.

(6.) Find the locus of a point such that if from it a pair of tangents be drawn to an ellipse, the product of the perpendiculars dropped from the foci upon the line joining the points of contact shall be constant.

(7.) Shew that the equation to the locus of the middle points of all chords of the same length (QC) of an an elipse is

$$\frac{^2a^2y^2 + b^2x^2}{C\ a^4y^2 + b^4x^2} + \frac{x^2}{a^2} + \frac{y^2}{b^2} - 1 = 0.$$

Third Class.

DYNAMICS.

Afternoon Paper.

(1.) State the third law of motion, and explain the several terms in it; apply it directly to the following question. Two bodies, whose masses are given, are placed on a horizontal table, at the extremities of a fine elastic string, which is stretched; determine the motion. If the bodies are inelastic, and impinge on each other with the velocity acquired, what will be the motion after impact?

(2.) Two smooth bodies of given masses moving with given velocities strike directly against each other. It is required to find the velocity of each, after impact.

(3.) Prove the formulæ $v = ft$, $s = \frac{1}{2}ft^2$.

Divide the length of an inclined plane into two parts, so that the times of descent down them may be equal.

(4.) Shew that the curve described by a projectile is a parabola, and the velocity at any point is that acquired by falling from the directrix.

(5.) To find a point where a projectile will strike an inclined plane through the point of projection, and its distance, or ranged on the inclined plane; find the greatest height which the projectile attains above the plane.

(6.) What

(6.) What must be the inclination of a cannon to the horizon, and the velocity of a ball projected from it, that the latter may strike the ground at two miles distance, after having just passed over a hill 100 feet high at the distance of one mile, neglecting the resistance of the atmosphere?

(7.) If a body be thrown directly upwards with a given velocity, the resistance of the air being $= kv^2$ where k is small, find the height to which it ascends, and the time of ascent.

(8.) A body oscillates in a cycloidal arc, acted upon by gravity and by a small constant retarding force (f) in the direction of its motion at every point; shew that the time of oscillation is the same as if this force had not acted, and that the decrement of the arc described in one oscillation $= \frac{2fl}{g}$

(9.) A perfectly elastic ball falls from a height h, on a plane inclined 30 degrees to the horizon; shew that it will strike the plane again after an interval equal to twice the time of its fall, and that its range on the plane will be 4 h.

(10.) A spherical particle of which ε is the elasticity, is projected with a velocity v at any angle of projection a, and at the instant of attaining the greatest altitude strikes a similar equal particle falling *downwards*, with a velocity equal to $\frac{v}{2}$ at the point of collision; to find the distance of the particles at the end of t seconds after impact.

Fourth Class.

PLANE TRIGONOMETRY.

Afternoon Paper.

(1.) Having given the three sides of a triangle, give the different methods of calculating the angles; and show which is best when one side is very large compared with the other two.

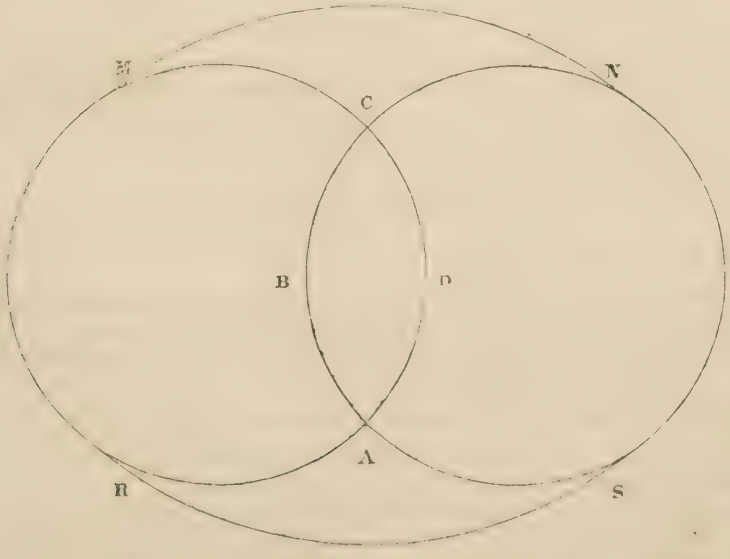
(2.) Explain the apparent absurdity of assuming $x + \frac{1}{x} = 2\cos\theta$

Assuming $(\cos m\theta - \sqrt{-1}\sin m\theta) = (\cos\theta - \sqrt{-1}\sin\theta)^m$ express $\tan m\theta$ in terms of $\tan\theta$, and its powers, and shew clearly how you determine the sign of the last term in numerator and denominator.

ex. $\tan 7\theta$.

(3.) If a, b, c, A, B, C, be the sides and angles of a triangle, then the radius of a circle described about a triangle whose sides are $a\cos A$, $b\cos B$, and $c\cos C = \frac{1}{2}$ that described about the original triangle.

(4.) Two equal circles intersect at right angles, and with the points of intersection, as centres two arcs are drawn touching the circles, so as to form an oval; shew that the space common to the two circles is equal to each of the spaces exterior to both.



(5.) If two observers A and B, at the distance of one mile from each other, see at the same moment a large bird, directly West and North-west of them respectively, A finds the angle of elevation made by the bird and a horizontal line to be 45°, and B finds it to be 30°;

 required

Appendix C.

required the distance of the bird from each of the observers, and its perpendicular height above the plane.

(6.) If (r) be the radius of the circle inscribed between the base of a right angled triangle, and the other two sides produced and r' be the radius of the circle inscribed between the altitude of the same triangle and the other two sides produced; the area of the triangle shall be equal to the rectangle rr'

(7.) Expand cos θ in a series ascending by powers of θ, and thence prove that

$$\cos\theta = \frac{\epsilon^{\theta\sqrt{-1}} + \epsilon^{-\theta\sqrt{-1}}}{2}$$

Deduce $\cos(\theta + \phi) = \cos\theta\cos\phi - \sin\theta\sin\phi$

(8.) Having given the chord of an arc of a circle; deduce an approximate rule for finding the length of the arc.

A semicircular arch is made with stones three feet long, the span of the arc being 40 feet, and its height 16 feet, what is the area of the front of the arch?

ENGLISH ESSAY.

For all the Classes.

On language as an instrument of civilization, with special reference to the effects which may be expected from the diffusion of knowledge through the medium of the English language in India.

VERNACULAR ESSAY.

Diligence, Industry and Honestry are the principal means of increasing national wealth.

যত্ন পরিশ্রম এবং সরলতা দেশীয় সম্পত্তি বৃদ্ধির প্রধান উপায় ।

LATIN ESSAY.

Quis inter Romanos summum Imperatoris laudem, quis boni sanctique viri præ cæteris meruerit?

JUNIOR SCHOLARSHIPS, 1851.

CROMBIE'S ETYMOLOGY AND SYNTAX, Part II.

Morning Paper.

(1.) Give rules for prefixing or rejecting the article in the phrases subjoined:

"*A man*, considered as a moral being, may be defined to be *the* responsible animal."

"Whoever has power abuses it: every page of history proves the fact:—*individual, body, the people*,—it is all the same,—power is abused."

"More I try, less I succeed."

(2.) In what cases does the verb precede its nominative case?

(3.) Certain nouns of the singular form require sometimes a plural, sometimes a singular, verb.

Why is this? Give an example.

(4.) Priestley contends for the expression, "He is greater than *me*," in preference to "greater than *I*." Explain his reasons, and Crombie's answer to them.

(5.) Adverbs have sometimes an article (definite or indefinite) prefixed to them. State the reasons, and give examples of the above usage.

(6.) With what cases are interjections joined?

(7.) What is necessary to form a complete sentence?

In punctuation, how does the colon differ from the period?

(8.) Name the different members of the following sentence:

"Though for no other cause, yet for this; that posterity may know we have not loosely, through silence, permitted things to pass away as in a dream, there shall be for men's information extant thus much concerning the present state of the church established amongst us, and their careful endeavour which would have upheld the same."

(9.) The relative agrees with its antecedent in what particulars?

Point

Point out the antecedents to *this* and *it* in the subjoined:

"The more methods there are in a state for acquiring riches without industry or merit, the less will there be of either in that state; this is as evident, as the ruin which attends it.

Afternoon Paper.

(1.) Point out the distinction between the following expressions:

A dark, scowling, infernal face appeared.
Hither came a dark, a scowling, an infernal face.

On his landing few espoused his cause.
On his landing a few espoused his cause.

He came late. He came lately.

When I heard his speech.
When I heard of his speech.

If we do good we shall do well, but how few that do well do good!

(2.) When the relative *who* refers to a personal pronoun as its antecedent, explain the difference of meaning according as the verb is in the first or third person.

Example. "I am he who commands you, or command you."

(3.) Under what circumstances do intransitive verbs govern the objective case?

(4.) When would you employ the subjunctive or conditional mood after a conjunction?

(5.) Certain prepositions only follow particular verbs and nouns. What prepositions may follow the verb "to start," and the adjective "disappointed," and what is the meaning of the resulting phrases?

(6.) Briefly correct *if necessary* the subjoined sentences:

The messenger came and told Brutus that his son has just died; and that he, therefore, cannot perform the sacrifice.

In consequence of the inundation the price of corn rose too much, and the people suffered great distress.

By this a Newton, a Lagrange, a Laplace were famous in their age.

Troubridge having run aground, signalised to the other ships to warn them of the danger.

In this eminent danger these first principals of defence were neglected: but the governor, when the matter was investigated, ingeniously confessed his error, and saved the rest from disgrace.

"When he inquired, Will I wait on you? I answered: By no means, I shall not allow it."

Andrien pleaded earnestly that he had no right to be hanged as a spy when he had merely obeyed the instructions of his general.

That we are capable of forming to ourselves an imperfect idea even of the infinite mind is, I think, a strong presumption of our own immortality.

"Happily to me I had retreated back from the edge of the cliff.

"The victories of Hannibal at land contrasted with those of the consul's on sea left little absolute advantage on either side."

(7.) Modernise the following:

"That which hath been ordained ill at the first, may wear out that evil in tract of time, and then what doth let but that the use thereof may stand without offence?

"Alcidamas the sophister hath many notable arguments to prove that voluntary and extemporal far excelleth premeditated speech."

HISTORY: STEWART'S BENGAL.

Morning Paper.

(1.) The date, and most remarkable circumstances of the first conquest of Bengal by the Mohammedans.

A brief account of the last expedition of the conqueror.

(2.) The slave viceroys of Bengal originally purchased by Altumish and Bulbun (Balin), with the date and particulars of the revolt of the last of them.

The policy of promoting foreign slaves to the highest offices.

(3.) The date of the accession of the first of the independent Mohammedan Kings of Bengal; with that of the expulsion of the last of them.

What King introduced African slaves into Bengal?

The names of those who mounted the throne. By whom were they finally driven from the country; and where, and under what name, did they afterwards settle?

(5.) The circumstances and date of the death of the last of the Affghan Kings.

In what respects did the government of the Affghans resemble the Feudal system of Western Europe?

(6.) An outline of the services performed by the Rajahs Todermul and Man Sing.

(7.) The name and situation of the ancient capital of Bengal.

Appendix C.

The dates, and circumstances of the removal of the seat of Government to the following cities; viz.—

Gour. | Rajmahel.
Tondah, or Tonra. | Dacca.
Moorshedabad.

(8.) A brief account of the expiring effort made by the Affghans to recover superiority in Bengal, with its date.

Who ruled at Dacca at the time?

Afternoon Paper.

(1.) The dates and particulars of two remarkable occasions on which the East India Company were indebted to British medical officers for privileges obtained by them; with the nature of the privileges.

(2.) The dates of the establishment in Bengal of the Portuguese, the French, the Danes, and the Dutch; and the localities selected by them respectively.

(3.) When, and by what viceroy, was Chittagong attached to Bengal? Whence did the expedition for its conquest set out?

(4.) The object of the deputation of Sir William Norris to the Court of Aurungzebe; and the result of the mission.

Trace the route pursued by him, after landing, to the Emperor's camp.

(5.) The changes introduced by Moorshed Kooly Khan in the collection of the revenue.

What sum did he annually remit to Delhi after paying all the expenses of his government?

(6.) The date of the accession, and that of the death of Ali Verdy Khan.

How was his reign for the most part occupied?

What means of protection against the common enemy did he permit the English to have recourse to?

(7.) The principal events which brought on the battle of Plassey; with its immediate consequences.

(8.) Does Stewart's History represent the life and action of a nation?

For the most part do glorious actions adorn, or great crimes stain its pages?

Select from it those facts which, in your estimation, are most praiseworthy.

MATHEMATICS.

Morning Paper.

ARITHMETIC.

(1.) Sum up the fractions $\frac{1}{2} + \frac{2}{3} - \frac{3}{4} + \frac{4}{5}$, and reduce each fraction to its corresponding decimal fraction.

(2.) How many cubic feet are there contained in a ship cabin

	feet.	*inch.*
whose length is	7	$1\frac{1}{2}$
„ breadth	5	5
„ height	5	$11\frac{1}{2}$

(3.) Multiply $(1 + \sqrt{-1})$ by $(1 - \sqrt{-1})$.

Divide 16 into two such parts that their product may be $= 67$.

SIMPLE EQUATIONS.

(4.) Express the exact times when the hour and minute hands of a watch will form straight lines between the hours of one and four.

(5.) Two different kinds of metal, weighing together more than P pounds, one of which is m'' times as heavy as water, the other m' times, are to be united, and to weigh m times as much as water. How many pounds must be taken from each piece?

THEORY OF NUMBERS.

(6.) Shew that the product of any three consecutive whole numbers is divisible by 6.

(7.) Prove that when a number is represented in the form $n = a^q \cdot b^r \cdot c^s$. &c., it will have $(q-1)\ (r-1)\ (s-1)$ &c. different divisors. By how many numbers is 720 divisible?

THEORY

THEORY OF NUMBERS.

Afternoon Paper.

(1.) Express the common number 70 in the binary scale; and reduce 123,46 of the denary to the duodenary scale.

(2.) The number 4504511 in the senary is expressed by 170571 in an unknown scale; find it.

GEOMETRY.

(3.) Shew that similar right-lined figures are in the duplicate ratio of their homologous sides.

(4.) If from any point O within a triangle ABC there be drawn Oa, Ob, Oc, to the sides, and from the angles Aa', Bb', Cc', be drawn parallel to these; show that:
$\frac{Oa}{Aa'} + \frac{Ob}{Bb'} + \frac{Oc}{Cc'} = 1$

(5.) Planes to which the same right line is perpendicular are parallel to each other.

GEOGRAPHY.

Morning Paper.

(1.) Give a comparative description of Great Britain, France and Russia.

(2.) What republics are there in America? Give a description of each, and state of what countries they were formerly colonies.

(3.) Describe the courses of the Mississippi, the Paraguay, the Euphrates, the Indus, the Brahmapootra and the Irrawady.

(4.) What four rivers have their sources in the Altain range, and in what lakes have the Sutledge, the Oxus, and the Oby, their sources?

(5.) Describe the situations of lake Chad, the desert of Shams, the Volcano Demavend, the Prairies, the Pampas, Gibraltar, Singapore, Hong-Kong and Demerara. And on what islands are Stockholm, Copenhagen, Venice and Cape Horn?

(6.) Give an account of the mountain chains of Asia, their situations, directions, extent and elevations. Where is Kunchinginga, the highest known mountain?

Give a description of the Northern Provinces and States of India, their situations, chief cities, &c., name those under British protection, and those which are independent.

Afternoon Paper.

(1.) The day, hour and place being given, how may we find, by the globe, where the sun is then rising or setting, and where it is noon, or midnight?

(2.) If the time at Greenwich indicated by a chronometer, be 2 hrs. 6 m. 30 s. at the same instant that it is 8 o'clock in Calcutta, what is the longitude of Calcutta? and for the same instant what time will it be at Bombay, the longitude of which is 72° 49′ 19″.

(3.) What are the trade winds and the Monsoons? In what regions do they respectively prevail? In what directions, and at what times do they occur? Where is the region of calms?

(4.) Make a map of the Atlantic Ocean, and put down the situation of the principal capes, seaports, islands, &c.

(5.) Make a map of the Malay Peninsular including China, and the Philippine and Sunda Islands.

ENGLISH TRANSLATION.

USE OF TIME—PUNCTUALITY—AND DISPATCH.

Morning Paper.

Very few persons are good economists of their fortune, and still fewer of their time; and yet of the two the latter is the more precious. Young people are apt to think they have so much time before them, that they may squander what they please of it, and yet have enough left; as the possession of very great fortunes has frequently seduced people to a ruinous profusion—fatal mistakes, always repented of, but always too late.

"Time is every man's estate."

Appendix C.

I would earnestly recommend the care of those minutes and quarters of hours, in the course of the day, which people sometimes think too short to deserve their attention: and yet, if summed up at the end of the year, would amount to a very considerable portion of time.

Many people lose a great deal of their time by laziness; they loll and yawn in a great chair, telling themselves that they have not time to begin anything then, and that it will do as well another time. This is a most unfortunate disposition, and the greatest obstruction to both knowledge and business. Young persons have no right nor claim to laziness: being but just listed in the service of the world, they must be active, diligent and indefatigable. Never put off till to-morrow what you can do to-day.

One method I will recommend to you, by which I have found great benefit in every part of my life; that is, to rise early; and at the same hour every morning, how late soever you may have sat up the night before. This secures you an hour or two, at least, before the common interruptions of the morning begin.

Our lives, says Seneca, are spent either in doing nothing at all, or in doing nothing to the purpose, or in doing nothing that we ought to do. We are always complaining that our days are few, yet acting as though there would be no end of them: and though we, in general, seem grieved at the shortness of life, we are wishing every period of it an end. The youth longs to be of age, then to be a man of business, then to make up an estate, then to arrive at honours, then to retire.

BENGALI TRANSLATION.

Afternoon Paper.

অথ সত্যবীর কথা ।

পূর্ব্বকালে হস্তিনা নগরে মহামল্ল নামে এক যবনরাজ ছিলেন তিনি সমুদ্রপর্য্যন্ত ভূমণ্ডল শাসনকরিয়া রাজ্য করেন । মহামল্লের ঐশ্বর্য্যাসহনশীল কাফররাজ সৈন্য সমুহেতে বেষ্টিত হইয়া মহা মল্লের সহিত যুদ্ধ করিতে তাহার নিকটে গেলেন । যবনেশ্বর কাফররাজকে নিকটোপস্থিত জানিয়া বাহ্লীক দেশজ এবং অন্য দেশীয় লক্ষ লক্ষ অশ্বোত্তমেতে পরিবৃত হইয়া নগরোপান্তে গিয়া সমর স্বীকার করিলেন । তদনন্তর উভয় পক্ষের যুদ্ধে যবনরাজের যোদ্ধা সকল কাফররাজের বলবান বীরগণ কর্ত্তৃক তাড্যমান হইয়া রণভূমি হইতে পলায়ন করিল । পশ্চাৎ যেমন সিংহভয়েতে হস্তিযূথ পলায়ন কয়ে সেই প্রকার মরণ ভয়ে পলায়মান নিজ যোদ্ধাগণকে দেখিয়া যবনেশ্বর কহিতেছেন হে আমার যোদ্ধা সকল তোমারদের মধ্যে রাজা কিম্বা রাজপুত্র এমত কেহ নাই যে সম্প্রতি অরি ভয়েতে ভগ্ন আমার সেনাগণকে নিজ বাহুবলে কিঞ্চিৎকালের নিমিত্তে স্থির করিতে পারে । যবনস্বামির এই বাক্য শুনিয়া কর্ণাটজাতি নরসিংহদেব নামা রাজকুমার এবং চৌহানজাতি চাচিকদেব নামে এক রাজপুত্র এই দুই জন রাজাকে নিবেদন করিলেন হে স্বামিন্ নীচগামি সল্লিল প্রায় শত্রুভয়ে পলায়মান যে তোমার সেনাগণ তাহারদিগকে সম্প্রতি কে নিবারণ করিতে পারে, যদি আপনি একক্ষণ ইতস্ততো ভ্রমণ করিয়া এখানে পুনশ্চ আসিয়া দেখেন তবে আমরা তোমার শত্রুকে খড়্গ ধারের পরিচিত কিম্বা চিতাশায়ী করি ।

যবনাধিপতি কহিলেন তোমরাই সাধু তোমাদের দুই জন ব্যতিরেকে অন্য কোন পুরুষ এমত সাহস করিতে পারে । তাহার পর নরসিংহদেব সাহস স্ফুরিতবাহু হইয়া বজ্রপাতের ন্যায় কশাঘাতে অশ্বকে শীঘ্রগামী করিয়া এবং বিপক্ষবর্গের অলক্ষিত হইয়া কাফর রাজের সৈন্যমধ্যে প্রবেশ করিলেন ।

পরে নরসিংহদেব অতিশয় উদ্দীপ্ত শ্বেতচ্ছত্রের তলস্থিত কাফররাজের হৃদয়ে শল্যাস্ত্র প্রহার করিলেন। কাফররাজ সেই অস্ত্র প্রহারে প্রাণ ত্যাগ করিয়া ভূমিতে পড়িলেন। সেই কালে চাচিকদেব ভূতলে পতিত এবং ত্যক্ত জীবন সেই কাফররাজের মস্তক চ্ছেদন করিয়া যবনেশ্বরের নিকটে আনিয়া দিলেন। যবনরাজ ছিন্ন মস্তক দেখিয়া জিজ্ঞাসা করিলেন এ মস্তক কাহার। চাচিকদেব উত্তর করিলেন এ মস্তক কাফররাজের। যবনরাজ পুনশ্চ জিজ্ঞাসা করিলেন কোন বীর কাফররাজকে নষ্ট করিয়াছেন। চাচিকদেব উত্তর করিলেন হে রাজাধিরাজ অনুপম পরাক্রম এবং নরশ্রেষ্ঠ শ্রীনরসিংহদেব কাফররাজকে নষ্ট করিয়াছেন আমি তাঁহার পশ্চাৎ গমন করিয়া কাফররাজের শিরশ্চেদন করিলাম। যবনস্বামী পুনর্ব্বার জিজ্ঞাসা করিলেন নরসিংহদেব কোথায় আছেন। চাচিকদেব কহিলেন হে ভূপাল কাফররাজের সন্নিধিবর্ত্তী এবং স্বামি সংহার জন্য কোপে কম্পিত কলেবর এমত বীরগণ কর্ত্তৃক হন্যমান প্রায় নরসিংহদেবকে দেখিয়াছি সম্প্রতি তিনি কোথায় গিয়াছেন এবং কোথায় আছেন তাহা আমি জানি না। সেইক্ষণে যবনেশ্বর হত নায়ক পলায়মান শত্রু সেনা সকলকে দেখিয়া পরমাহলাদিত হইলেন এবং পলায়িত বিপক্ষ সৈন্যের পশ্চাদ্গামী নিজ সেনাগণকে কহিলেন হে আমার যোদ্ধাগণ তোমরা কেন শত্রু সেনাগণকে নষ্ট করিতেছ সম্প্রতি আমার রাজ্য রক্ষাকর্ত্তা এবং কাফররাজান্তক যে নরশ্রেষ্ঠ শ্রীনরসিংহদেব তাহাকে আনিয়া দেও। পরে যবনরাজ অনুসন্ধান করিয়া অনেক নারাচাস্ত্র প্রহারেতে ছিন্ন ভিন্ন শরীর এবং গলিত রুধিরের সহস্রসহস্র ধারাতে স্ফুটিত কিংশুক পুষ্পের ন্যায় ও অতিশয় বেদনাতেমূর্চ্ছিত নরসিংহদেবকে দেখিয়া তৎক্ষণাৎ ঘোটক হইতে নামিয়া জিজ্ঞাসা করিলেন হে নরসিংহদেব তুমি বাঁচিবা। নরসিংহদেব উত্তর করিলেন হে রাজাধিরাজ আমি যাহা করিয়াছি আপনি তাহা অবগত হইয়াছেন। নরপতি প্রত্যুত্তর করিলেন যে চাচিকদেব কহিলেন যে তুমি আমার যে শত্রু বিনাশ করিয়াছ তাহাতেই আমি তোমার সমস্ত কার্য্য জানিয়াছি। নরসিংহদেব কহিলেন আমি যাহার হিতেচ্ছাতে অতিশয় দুঃসাধ্য কর্ম্ম স্বীকার করিয়াছিলাম যদি তিনি সে সকল জ্ঞাত হইয়াছেন তাহাতেই আমার শ্রমরূপ বৃক্ষ ফলবান হইল অতএব আমি দীর্ঘ জীবী হইব। তদনন্তর যবনরাজ নরসিংহদেবের শরীরে অতিশয় মর্ম্মবাণ সকল উদ্ধার করিয়া এবং নানা প্রকার ঔষধ সেযন ও পথ্য প্রয়োগেতে অল্প দিনের মধ্যে নরসিংহদেবকে অক্ষত শরীর করিলেন। পরে যবনরাজ সহস্র২ উত্তমাশ্ব ও লক্ষ২ স্বর্ণ আর ছত্র এবং চামর আর অনেক অর্থ দিয়া নরসিংহদেবের পুরস্কার করিলেন। প্রসাদ প্রাপ্ত হইয়া নরসিংহদেব যবনরাজাকে নিবেদন করিলেন হে রাজাধিরাজ যুদ্ধ করা রাজ পুত্রদের স্বভাবিক ধর্ম্ম আমি কি অদ্ভুত কর্ম্ম করিলাম যে আমার এতাদৃশ সম্মান করিলেন সে যাহাহউক যদি আমার পুরস্কার রহিত হইল তবে চাচিকদেবের সম্মান করুন তিনি সত্য প্রতিপালনের নিমিত্তে মহারাজের নিকটে শত্রুর মস্তক আনয়ন করিয়া ও আমার যশঃপ্রশংসা করিয়াছেন স্বকীয় পুরুষার্থ প্রকাশ করেন নাই ইনি মারণ

Appendix C.

চিহ্ন যে শত্রু মস্তক তাহা আনিয়া ও আমি বৈরি বিনাশ করিয়াছি ইহা কহেন নাই তন্নিমিত্তে প্রথমত চাচিকদেবের পুরস্কার কর্ত্তব্য। পরে চাচিকদেব কহিলেন হে রাজকুমার আমার নিমিত্তে এ প্রকার কর্ত্তব্য নহে আমি কেন তোমার শৌর্য্যের ফল লইয়া পরের উচ্ছিষ্টভোগী হইব। তাহা শুনিয়া নরসিংহদেব কহিলেন হে সত্যবীর চাচিকদেব তুমি সাধু তোমার এই সত্যতা হেতুক বুঝিলাম যে তুমি পণ্ডিত এবং সতীপুত্র ও অতি প্রশংসনীয় মহাশয়। তদনন্তর যবনেশ্বর ঐ দুই রাজপুত্রর পরস্পরালাপে হৃষ্টচিত্ত হইয়া দুই রাজকুমারের তুল্য পুরস্কার করিলন।

URDU TRANSLATION.

افلاطون كي وصيتون كي بيان مين

افلاطون كهتا هي كه خدا كو پهچان اور اُسكي حق كو نگاه ركهه * اور هميشه اپني همت تعليم اور تعلم مين مصروف كر * اور اهل علم كي علم كي زيادتي كا امتحان نه كر * بلكه شر و فساد سي باز رهنا اختيار كر اور حق تعالى سي ايسي چيز مت مانگ كه اُسكي منفعت كي طرف زوال كي راه هو * بلكه جو نيكيان كه باقي رهتي هين اُنكي طلب كر هميشه بيدار ره كه بديون كي بهت سبب هين * اور جو نكيا چاهئي اُسي آرزو سي مت مانگ اور جان كه بندي سي خدا كا انتقام لينا غضب كي طريق پر نهين بلكه بطريق تاديب ارر تهذيب كي هي * اور زندگي پر قانع مت ره جب تك موت نه آوي * اور زندگاني كو بهتر مت جان مگر جب كسي چيز كي حاصل كر نيكا وسيله هو * خواب اور آسايش كي رغبت نكر مگر بعد اُسكي جب تين چيز كا محاسبه آپ سي تو لي * اَيك يهه كه تو تامل كري كه جس دن جو تو ني كيا هي تجهسي خطا سرزد هوئي هي يا نهين * دوسري يهه كه سوچ كه آج كچهه كام كيا هي يا نهين * تيسري يهه كه كوئي كام تجهسي بسبب قصور كي ره گيا هي يا نهين * ياد كر كه اِس زندگي كي آگي تو كيا تها اور بعد اِسكي تو كيا هوگا * اور كسي كو ايذا ندي كه عالم كي سب كام زوال اور تغير كي مقام مين هين * بدبخت وه شخص هي جو عاقبت كي ياد سي غافل رهي * اور گناه سي نچهو ٹي اور اپني پو نجي اُس چيز سي جو تيري پاس نهو متكر * اور مستحقون كو نيكي پهنچا ني مين اُنكي سوال پر موقوف نركهه اور اُسي حكيم مت جان جو لذت دنياوي سي خوش هو يا كسي مصيبت كي سبب جزع و فزع كري اور هميشه موت كو ياد ركهه اور مردون سي عبرت پكڑ * اور خسيس آدميون كو اُنكي بهت بي فائده بات كر ني اور بغير پوچهي جواب ديني سي پهچان * اور جان كه شرير وهي شخص هي كه جسني شرارت اختيار كي هو * خوب سوچ كو بول اور كام كر * اور سب كا دوست ره جلد غصي مت هو تا خفگي تيري خو نهو جاوي اور محتاج كي حاجت كل پر چهوڑ تو كيا جا ني كل كيا هوگا * قيديون كي اعانت كر مگر جو خوي بد مين گرفتار هي * جب تك دونونكي بات نه سمجهي اُنكي درميان حكم نه كر فقط قول هي مين حكيم نره بلكه قول و عمل دونو مين * اِسلئي كه حكمت قولي اِس جهان مين رهي اور حكمت عملي اُس جهان تك پهنچي اور وهان باقي رهي * اور اگر نيكي كي لئي تو رنج كهينچي تو رنج نرهي پر نيكي رهي اور جو كسي بدي كي سبب تو لذت پاي تو لذت نر هي اور بدي ره جاي * اور اُس دن كو ياد كر كه تجهي پكارين اور تو بولني سي عاجز رهي كچهه نه سني اور كچهه نه كهي اور ياد بهي نه كرسكي *

WATTS ON THE IMPROVEMENT OF THE MIND.

Morning Paper.

1. Give a short account of the five methods described by Dr. Watts, of "improving the Mind in the knowledge of things."
2. What are the chief points requiring attention in learning a language?
3. What is meant by Memory: how does it differ from Judgment and Reasoning, and what are its uses?
4. Detail the particular rules laid down by Dr. Watts for the improvement of the Memory.

Afternoon Paper.

5. "Some effects are found out by their causes, and some causes by their effects." Explain and illustrate the meaning of these.
6. Enumerate the advantages of reading as a means of improving the mind.
7. What is meant by study? Show that without it no one can really become learned or wise.
8. What general rules, according to Dr. Watts, ought to be observed in all debates or disputes intended to find out truth, or detect error?

ORAL EXAMINATION.

PROSE.

Tuesday, September 23.

He whose mind is engaged by the acquisition or improvement of a fortune, not only escapes the insipidity of indifference, and the tediousness of inactivity, but gains enjoyments wholly unknown to those who live lazily on the toil of others; for life affords no higher pleasure than that of surmounting difficulties, passing from one step of success to another, forming new wishes, and seeing them gratified. He that labours in any great or laudable undertaking, has his fatigues first supported by hope, and afterwards rewarded by joy; he is always moving to a certain end, and when he has attained it, an end more distant invites him to a new pursuit.

It does not, indeed, always happen that diligence is fortunate; the wisest schemes are broken by unexpected accidents; the most constant perseverance sometimes toils through life without a recompence; but labour, though unsuccessful, is more eligible than idleness; he that prosecutes a lawful purpose by lawful means, acts always with the approbation of his own reason; he is animated through the course of his endeavours by an expectation which, though not certain, he knows to be just; and is at last comforted in his disappointment by the consciousness that he has not failed by his own fault.

That kind of life is most happy which affords us most opportunities of gaining our own esteem; and what can any man infer in his own favour from a condition to which, however prosperous, he contributed nothing, and which the vilest and weakest of the species would have obtained by the same right, had he happened to be the son of the same father?

To strive with difficulties, and to conquer them, is the highest human felicity; the next is to strive, and deserve to conquer; but he whose life has passed without a contest, and who can boast neither success nor merit, can survey himself only as a useless filler of existence; and if he is content with his own character, must owe his satisfaction to insensibility.

POETRY.

When men of judgment creep and feel their way,
The positive pronounce without dismay;
Their want of light and intellect supplied
By sparks, absurdity strikes out of pride:
Without the means of knowing right from wrong,
They always are decisive, clear, and strong;
Where others toil with philosophic force,
Their nimble nonsense takes a shorter course;
Flings at your head conviction in the lump,
And gains remote conclusions at a jump;

Appendix C.

Their own defect invisible to them,
Seen in another, they at once condemn;
And, though self-idolized in ev'ry case,
Hate their own likeness in a brother's face.
The cause is plain, and not to be denied,
The proud are always most provok'd by pride.
Few competitions but engender spite;
And those the most, where neither has a right.

N. B.—Each junior Scholar will in turn read and explain the above passages to the Examiner, who will frame such questions connected with the grammatical construction, meaning, allusions, or references contained in them as he may consider calculated to elicit the knowledge possessed by the pupil.

The same questions are to be put to all candidates in the same school, care being taken that they are not known beforehand, or communicated by those who have been examined to those whose turn is yet to come.

The nominal value of the whole paper is 50 marks,—25 for Prose and 25 for Poetry.

ANSWERS of the most proficient STUDENTS in the PRESIDENCY and MOFUSSIL COLLEGES.

LITERATURE PROPER.

HAMLET.

Morning Paper.

Answer 1st.—We strike it in vain, and our attempt serves merely to expose the wickedness of our intention, while we are mocked and slighted by it, being unable to do it any injury.

Answer 2d.—A little before the day dawns the cock begins to crow and make a shrill noise; so that it is commonly believed that it awakes the god of day (*i. e.* the sun), who is represented as travelling in his car. It is in this sense that this bird is called "the trumpet of the morn," as giving us notice that the day is approaching.

Answer 3d.—According to the pneumatology of the times, it was believed that every element was inhabited by its peculiar spirits, and that these spirits leave their respective abodes during the night to travel into a foreign element, whether ærial spirits wandering in the earth or earthly spirits ranging the air.

"Extravagant" here means, going out of its own element. It is frequently used in the sense of making an enormous expense, going beyond the just bounds of economy.

"Erring" here means, wandering from place to place. It is frequently used to signify falling into errors and mistakes.

Answer 4th.—"Probation" means, proof.

The truth of which the object made "probation," is that as soon as the cock is heard to crow, all sorts of spirits, that wander about in foreign elements during the night, hasten to their respective elements where they are confined during the day: and the spirit here added a new testimony to this truth.

Answer 5th.—The season here referred to is the time of the Christmas.

The dove is here called "the bird of dawning."

"Against" here means, before; so that the meaning is, before that season comes, &c.—"Against" is here used as an adverb.

Answer 6th.—Such is the holiness and gracefulness of the season, that at that time no planets strike each other in their revolution, which is believed to forebode evil, no fairy strikes with lameness or disease as in any other time, and no witch can enchant by all her spells and charms, but every thing is serene and peaceful.

The time is "so hallowed and gracious," on account of Christ's birth being celebrated at that time.

Answer 7th.—But see the morning advances, which being reddened by the soft rays of the rising sun, sheds its lustre from the east over that high hill, on the top of which dews are deposited.

Milton describes it "rosy-fingered morn" that sheds her bright red hue against the high wall.

Answer 8th.—"As needful in our loves, fitting our duty," means, that we should acquaint him with all the circumstances that we have observed, for two reasons, first, as we are bound to him in friendship and love, and secondly, because this appearance of his father's ghost concerns him very nearly, so that it is our duty to inform him of this, as we are his subjects, and therefore bound to do him any good service that we can.

Answer 9th.—It is frequently observed in individuals, that for some natural defect in them, whether arising, from the time of their birth, by the growth of some additional humour (as sanguine, phlegmatic), which often makes them act contrary to the dictates of reason,

reason, and for which they cannot be blamed (for nothing in nature can choose its own origin so as to select for the better); or by some other hurtful defect which urges them to break the rules of society; that these men having but one defect in them, being given them by nature or acquired by the influence of some star that presided in their birth, all their virtues (though they may be as pure as if grace herself was present, and as many as may be accumulated upon man) shall in the summing up of their qualities be censured for that particular fault.

RAJINDER NAUTH MITTER, Hindu College,
First Class, First Year's Senior Scholar.

GRAY'S POEMS.

Morning Paper.

Answer 1st.—"Thy milder influence impart."

Here two things are compared, the *mild* and the *vigorous* influence of adversity. The poet says, "Dread godess" come not to me, clad in thy Gorgon terrors, but with a countenance benign and angelic.

"Philosophic train," &c.

The fruits of adversity which the poet calls "Her philosophic train" are these: When a man is borne away by the current of adverse fortune he ought not to be too much depressed. Because when adversity comes, it comes for his good only. He is able to bear up with future misfortunes with greater fortitude, and is able to reason with sense, on the impropriety of being dejected at the advance of adversity.

Answer 2d.—"Teach me to love and to forgive."

Means,—Teach me to love others, and to forgive others, (i. e.) excite in me the feeling of love and generosity. This passage is probably taken from the Scriptures, "Thou shalt love thy neighbours as well as thyself;" and—"If you forgive your enemies, God shall forgive you."

"Exact my own defects to scan,
What others are to feel, and know myself a man."

(i. e.) Teach me exactly to examine my own defects or failings, and give me to know, the suffering of others, that I may feel myself mortal, like all men.

Answer 3d.—"Celestial fire" means,—heavenly inspiration.

"Or waked to ecstacy the living lyre."

(*i. e.*) or would have been great masters of lyric poetry, waking the trembling strings of the "living lyre," with ecstacy and rapture.

Answer 4th.—"Spoils of time" are the improvement and advancement of knowledge as time wings forward, which adorn and enrich the ample page.

The word *ample* is here very appropriately used, it seems as if the page of knowledge was vast and various in its information, as if it comprehended all that the fertile genius of man has been able to invent.

Answer 5th.—"Left the warm precincts of the cheerful day."

Means, left behind this radiant world,—this charming spot, where the days are ever cheerful and not gloomy. Some writers among whom is the anonymus critic, say, that the "warm precincts of the cheerful day" means *the body*. Common sense however shows us the impropriety of the explanation.

"E'en in our ashes live their wonted fires."

So great is the vanity of human wishes, that we desire our friends, in fact the whole world, to remember us when we are in the tomb, as they used to do, in our absence.

"Fires" here means *desire*.

"Pleasing anxious being" means, the pleasing state of this, our present existance anxious for still greater pleasures of this world.

Answer 6th.—Gray here alludes to Queen Elizabeth, the Virgin Queen of England. She was a true Briton, for the blood of the race of Tudor ran in her veins.

The Bard refers with satisfaction to this circumstance, because he foresaw, that a long line of monarchs of Saxon descent was to rule over Britain. This was fulfilled in the house of Tudor whose first Sovereign was Henry VII.

Answer 7th.—"What strings symphonious tremble on the air," &c. Here Gray alludes to the poets who flourished in the court of Elizabeth.

"The strings trembling in the air" is a very beautiful expression. So we have in the Progress of Poesy "and give to rapture all thy *trembling strings*." "The strains of vocal transport." This expression also is peculiarly elegant. How it brings before the reader, the pictures of wandering minstrels and "errant damoiselles," who were greatly patronized by the queen and her gay minstrels and courtiers.

Appendix C.

Answer 8th.—The poets here alluded to are Spencer and Shakspeare. The lines

"The verse adorn again
Fierce war, and faithful love,
And truth severe in fairy fictions drest."

Allude to Spencer, because we see it from his own writings

"Fierce war and faithful love
Shall moralize my song."

FAIRY QUEEN.

The last three lines allude to Shakspeare because it was he that brought on the stage the moving scenes of grief, pale and emaciated, pleasure, mingled with pain, to enhance the blessing, and horror, "tyrant of the throbbing breast." In other words, they mean the tragedies and comedies of that immortal poet.

Answer 9th.—"A voice as of the cherub choir,
Gales from blooming Eden bear"

Means

A voice (whose harmonious and melodious strains seem to proceede from the "cherub choir,)" describes the blooming garden of Eden, with its living fountains and gales breathing over banks of heavenly flowers.

The above lines allude to Milton, and the expressions, "cherub choir" and "Gales from blooming Eden," are happily applied, Because it was Milton who

"Passing the living bounds of place and time"

described the blooming and ever-green garden of Eden, the magnificance of the Eternal's throne, and the choir of cherubs that sing night and day the praise of the Almighty.

OMUSH CHUNDER DUTT, Hindu College,
Junior Scholar, First Year, Fourth Class,
Senior College Department.

COLLINS.

1.—'In *earliest* Greece to thee with *partial choice*
The grief-full muse *addresst her infant tongue.*'

'Partial choice' means fond preference the muse preferred fear to the other passions, grief, pity, &c.

'Addrest her infant tongue'—that is the tragic muse, while yet but incipient in Greece, paid homage to fear. The early tragic writers devoted themselves chiefly to the excitation of awful feelings.

'*Earliest* Greece'—Earliest, because it is there that the arts and sciences first flourished that illuminate the world—it is said to be the first country in the world which gave birth to civilization and all the polished arts of life.

2.—'For not alone he mused the poet's flame
But reached from virtue's hand the patriot's steel.'

Not only did he (Eschylus) possess the noble inspiration of a *poet* but his heart glowed also with the fire of patriotism and it was that virtuous emotion which led him to handle the sword of the warrior and fight for his country in the glorious battles of Marathon and Salamais.

3.—'Though gentle pity *claim her mingled part,*
Yet all the *thunders of the scene* are thine.'

Pity claims her mingled part in the tragedy in question viz. Sophocles' Œdipus. Though, he says, the tragedy excites *some* pitiful sensations in our hearts yet all thunders of the scence—all the dreadful portions of it which strike the reader, are thine oh fear! It is not so much to infuse in our minds tender sensations of pity as to strike us with terror and awe.

4.—But thou O hope with eyes so fair
What was thy delighted measure?

Often would pleasing hope softly promise future pleasure and bid us expect her lovely scenes with cheerful delay,—still would her happy notes leave a lingering echo behind, such that every heart would gladly repeat and confirm.

5.—O Music, sphere-descended maid
Friend of pleasure, wisdom's aid

Music is the friend of pleasure—there is, indeed, nothing so charming to every mind as music—nothing can have such a universal effect upon mankind as music. It communicates into

into our soul feelings which vibrate in unison with every string of the heart and its influence is consequently felt (though in different degrees) by the rude and the learned the philosopher and the peasant by the sad and the cheerful. Even those who are sunk in the horrors of despair or dejected by grief own the soothing influence of music!

Music is wisdom's aid—because music purifies the heart through the medium of the various feelings of pity, sadness, horror, &c. Indeed there is a kind of music which is dangerous to the interests of morality and religion but it must be owned on the other hand that there are species of it which disturb us by pity, enlarge our minds by sublimity and refine our hearts with purity.

RASSELAS.

6.—The reasons laid down by Johnson to account for the fact that the most ancient poets are considered as the best are as follow.

In the first place he considers it as probable, that as every other kind of knowledge is acquired gradually and requires the efforts of successive generations to carry it to any degree of perfection but as poetry is a gift conferred at once—as it is born, not made that therefore the first poets of a country are generally the best.—In the next place he supposes that the first poetry of a nation surprized them as a novelty and they concurred to give it that high credit chiefly on account of its novelty, disregarding the intrinsic value of the poetry itself.

Lastly he gives it as a reason that as the province of poetry is to describe nature and passion which are invariable the first writers secured for themselves all striking images, and the most probable occurrences for fiction, their followers could only tread *the beaten path* and were therefore not entitled to that veneration which their predecessors had gained by their originality and strength.

It may perhaps be stated as a reason to the fact in question that so long as a people does not wholly emerge from barbarism—so long as it does not direct its interests to the affairs of a highly civilized society—to commerce navigation &c., the people remains highly imaginative, and the poets who flourish during that age are remarkable for their strength and invention. People of a highly refined society turn their thoughts to the various duties of active life—reason is always to be exerted while imagination is not called forth at all.

7.—What man would pay to beings of a higher order—to beings of the Angelic World.

Poetry is born not made.

The province of poetry is to describe the beauties of nature and paint the mysteries of the human heart. Such occurrences as are not wholly above nature and reality—such as may be seen in real life.

8.—It is commonly found that the earliest writers are the followers of nature—they can bring forward highly picturesque images—and such striking and prominent features as recall the object of their description to the mind of every reader at the very first sight.

'Their followers of art'—poetry is now sophiscated, artificial, it wants natural vigour, it is languid, elegant and refined, Dryden for instance is a manly vigorous and noble writer.

Grays poems on the other hand are artificial it possesses a methodical, borrowed dignity, He wants nature—'He is as Dr. Johnson says, 'tall by walking on tiptoe.'

Mooraly Dhur Sen, Hindu College,
Fourth Class, Junior Scholar, First Year,
Senior College Department.

BACON'S NOVUM ORGANUM.

Answer 1st.—Words are formed by abstractions, whether logical or illogical. But as they are made according to the understanding of the vulgar, many of them convey very wrong notions of things of which they are made the signs. Wise and learned men invent new words and devise new and correct definitions in order to remedy this evil, but they cannot throw off the yoke, since the mind is become very familiar with them.

The understanding is here compared to a looking glass, which is so distorted and placed in such a wrong position, as not to reflect the true image of things that are set before it.

Answer 2d.—Words are generally formed according to the capacity of the vulgar, that is they are formed not by philosophical abstractions but in such a way as to be understood by all men. Now common people cannot enter so far into the nature of things as philosophers do, they only look on the surfaces of things, and consequently words, which are formed by common consent, are made according to vulgar conceptions. In the same way definitions are formed not by logical examination, but a consideration of the surfaces of things, for common people cannot enter deeper. That this opinion is true will appear clearly, when take into consideration the meaning annexed to the common phrases, "the sun sets," "the sun rises." It is to philosophers and scientific persons, that the case appears to be otherwise. But common people who see that a relative change of position between us and the sun takes place, conceive and firmly believe that the sun moves, and the earth is stationary. Hence the phrases "sun rises," "sun sets," which we daily use in our conversation, were introduced in language. Again, as to definitions, let us take the term oxygen, and see what is signified by it. From its derivation, it means, "the originator of acid."

Appendix C.

acid." When this term was formed it was supposed to be the only originator of acid but it is now found that, it is not *the* originator of acid, but *a* originator of acid.

"Words cry out"—that is, when men endeavour to remove these wrong distinctions, the words, by which definitions are expressed, but which are themselves wrongly abstracted, throw obstacles.

Answer 3d.—That the objection that "definitions consist of words, and words generate words," does not apply to mathematics, appears clearly when we consider that essential difference there is between that science and all other sciences. In "natural and material things" words are formed from an observation of facts, how wrongly that observation may be carried on, while in mathematics the terms used of are wholly founded on *hypothesis*. But in material things, the case is quite different. Here the terms are not hypothetical, but are derived from facts, but in many cases these facts are not properly observed, and sometimes it is impossible to express in words what is observed in fact. For instance, when I am asked what is the meaning of "sensation," I cannot explain it to another who had never any sensation. I may say it is "feeling," but again I may be asked what is "feeling," and it will be impossible for me to explain it. I understand what is "benevolence" but I cannot explain what it means to a man who was never *benevolent*. This difficulty, which is derived from the imperfection of language, is not perceived in mathematical science, where the terms are definite and precise in their significations.

Answer 4th.—Bacon's philosophy itself serves as an example of fruits being the vouchers for the truth of philosophies. Many modern discoveries and inventions owe their origin to the philosophy of Bacon. Newton himself was led by the light of his philosophy, and made many discoveries by its assistance. The earlier Greeks paid some attention to experiment and observation, and made discoveries upon sound principles. The fruits which accrued from their systems are many and serve to show that the authors proceeded on true principles.

Answer 5th.—By "grapes and olives" the author means, "fruits" and utility.

By "thistles and thorns" he means, disputation among authors.

The philosophy of Aristotle was fitted for disputes, making answers by devising means of defences. The philosophies of the later Greeks were framed for the same purpose, the authors being only solicitors of raising sects, defending their favorite opinions, and consequently making contentions with each other. The philosophers of the middle ages did the same thing. They even went so far as to travel through the different parts of Europe and making disputes and altercations with philosophers and scientific men.

Answer 6th.—The kingdom of man over nature is limited by one condition, that it must be exercised in conformity with the laws of nature. "He must obey that he may command." There are many things in nature which kings cannot get possession of by means of money or force, neither can they have any account of them by their spies and intelligencers, as in civil affairs, or by the discoverers and naval officers. They may conquer an enemy by force but cannot conquer nature without a knowledge of her laws. They may command a subject to serve them, but cannot make nature serve without previously obeying her. They may get intelligences and secret accounts of foreign countries by means of ambassadors, but it is not within their power to get out the secrets of nature without closely adhering to her in person and thereby finding axioms. Their seamen and discoverers may discover lands hitherto hid from the knowledge of mankind, but they cannot make discoveries in nature without proceeding in the method pointed out in the Novum Organum. When a man begins to make discoveries in nature, he should constantly bear in mind that "knowledge is power," that is, without having a sufficient knowledge of the laws and axioms of nature, it is impossible for him to enter into nature.

Answer 7th.—According to Bacon the true end of the sciences is to enlarge the kingdom of man over nature and to increase the sources of his enjoyment. Other writers say that the true end of the sciences should be "truth." Of this Lord Bacon cannot be said to have been ignorant. The mark of a science founded on true principles, is utility and fruits, "for fruits are as the vouchers and securities for the truth of philosophies." In one place he says, that "truth" is undoubtedly the true end of philosophy. Truth and utility are ever consistent with each other and both are alike serviceable, nay even *utility* is of greater service, since by its means we are enabled to know that truth has been found. So that, that the object of all sciences is truth, did not escape Bacon's observation, but that he purposely kept it in the back ground.

Answer 8th.—The grand object of Bacon's philosophy was to make a reformation in the sciences that were prevalent up to his time. Now, every reformation consists of two parts, the destructive and the constructive. The former part he undertakes in the first part of the Novum Organum and succeeds completely in it. The grand principle of all the sciences, which he mentions in the first aphorism (that man, who is the servant and interpreter of nature, can understand and act as far as he has observed in the order of nature; beyond neither his knowledge nor his power extends), has not hitherto been mentioned by any philosopher. The principle which is the ground work of Bacon's philosophy, is the principle of induction. It is true the ancients made use of induction, which is natural to every mind, but their induction was not such as the thing required. They did not make sufficient number of experiments and observations, but from a small number of familiar instances, made general axioms. But Bacon's method proceed from experiments to lesser axioms, thence to middle ones, and then to axioms of greater generality and last to the most general. Again, the ancients did not collect negative instances, which, he says, are of great use, as by them axioms are tried as metals and other things by fire. The axioms of the ancients were formed for the explication of few facts, but they used to apply generally, and when any contradictory

dictory instance occurred, they used to slight and reject it under the pretext of exceptions. They ancients sought for no assistance for the mind, but left it to itself. But this Bacon says is very foolish; it is the same thing as to suppose that the hand is able to accomplish much without the aid of instruments. Aids must be supplied to the understanding, no less than to the hand, unless men wish to move continually in a circle without considerably advancing.

Bacon clearly points out the true object and end of the sciences, and points out the way in which men should proceed in discoveries. But the ancients had no determinate end in view and it is impossible to come to any certain knowledge when the end is not rightly fixed, and if the end had been fixed they chose an impassable way to proceed in.

In another place, he says, that the natural history of the ancients was formed its own sake, but if we wish to make improvement in philosophy, we ought to have such a history as shall contain it the description of animals, vegetables, &c., as also the various experiments in the mechanic arts.

The minds of men he says beset by a great number of idols and prejudices, which he therefore proposes to remove by the raising of axioms and notions by means of induction.

The errors of the human mind are fundamental, so that it is necessary that the instauration must be begun from the very foundation, that is, from natural history. He therefore removes the idols from the mind, points out the signs of false philosophy, and enumerates the causes of errors. And in order to prevent men from despairing, gives grounds of hope, and having cleared the mirror places it in a right position as to received things in a proper manner.

Rajinder Nauth Mitter,
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MENTAL PHILOSOPHY.

Morning Paper.

Answer 1st.—As a law of nature is a general proposition enunciating the order of sequence which the phenomena of the physical world observe; so a law of mind, may be defined (according to Stewart's views) to be a proposition enunciating the order of succession, which the phenomena of the mental world observe. These laws express the relations between the several faculties and the several acts of the mind, as connected with one another in the order of cause and effect. Such for example are the laws respecting the association of ideas, or the law asserting the dependence of memory on that act of mind called *attention*, such again is the law of mind leading a man to believe in his own existence, the moment he is conscious of the existence of any of the sensations excited by external objects, and the law of mind leading a man to connect the belief of his own personal identity with all his reasoning operations.

The process by which these laws are to be ascertained is the same, according to Stewart as that by which the laws of the physical world are to be ascertained, viz. by observation and experiment. A close attention to the objects of our consciousness will enable us to discover the relation that subsists between the operations of our mind and when we have sufficiently sifted the results of our observations, we shall at last discover the laws that regulates our mental operations. The inductive method is the means which we must make use of, in our investigations of the laws whether of physics or of mind.

Answer 2d.—The following are the causes of the retardation of the progress of mental philosophy, taken notice of by Stewart. 1. A belief that the laws which regulate the operations of the human mind are beyond the reach of our faculties to discover; and 2. That even were they known, they would be of no practical utility to us. 3. The lateness of the period when they first came to be successfully cultivated. 4. Inattention to the proper limits of human investigations. 5. Because analogy of the laws of matter were not used with sufficient caution so that men, engaged in the investigation of the laws of mind, often rested satisfied with their exertions, if they could find some affinity between a mental operation and the laws which regulate the phenomena of the material world.

Answer 3d.—The word "Reason" is used to signify that faculty of the human mind which enables us to distinguish, 1 truth from falsehood, 2 right from wrong, 3 and which enables us to adopt means for the accomplishment of an end. It was originally used to mark the distinctions whatever they be, which separated men from brutes and came afterwards to be limited by our notion of the obvious nature of these distinctions. Hume and others, include only the 1st and 3d of these significations within the term "Reason." Intuition is that faculty of the mind which enables us to perceive the truth in matters which are self-evident, but reasoning enables us to perceive the truth of propositions by drawing a chain of consequences and through the medium of other truths. Stewart is at great pains to show that there is no radical difference between these; but he himself confesses that reasoning involves the idea of memory together with that of intuition. Here then lies the chief distinction between these, that one is a simple uncompounded faculty, the other the combination of several, at least of two. Stewart illustrates the distinction between them by saying, that our simple judgments, are like stones prepared by the chisel, on each of which we can raise ourselves as upon a pedestal to a small elevation, but reasoning is like these stones combined together to form a staircase, in the formation of which, great skill may be necessary, but in ascending it nothing more is required than a repeation of the first act.

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He raises the whole of his theory on the confession of Locke that reasoning consists of intuition in every step; but we have seen the distinction between them.

Answer 4th.—The axioms are the elements of our reasoning in geometry or rather in mathematics in general, and a conviction of their truth is implied in every step of our procedure but they are not the fundamental principles of that science, as we can deduce no consequences from them, for let a man pore as long as he will on these he will scarce come to know by that means that the square of the hypotenuse in a rightangled triangle is equal to the sum of the squares of the two sides. To this effect Stewart quotes a passage from Locke and he himself subscribes to its truth. Definitions on the other hand are the fundamental principles of geometry, the hypothetical truths on which the whole science depends and for the inaccuracy of which no subsequent logical rigour can compensate. On what other basis, he triumphantly asks, except on that of the definitions, is the whole fabric of the geometrical science built? The definitions of a circle, an ellipse, &c., are the only foundations on which the demonstrations of all their properties stand.

He illustrates this distinction by likening a process of reasoning to a chain supporting a weight (the conclusion,) then the definitions will form the hook, or rather the beam to which the chain is fixed, the axioms will be the successive links or concatenations of this chain.

Answer 5th.—The fundamental laws of belief are those simple truths a conviction of which is involved in all our reasoning operations, they are therefore also called essential elements of human reason. When the axioms are not included within these, they are then only such laws, a conviction of which is involved in all our reasoning concerning *probable* or moral truths. Such for example as a belief in our own existence, in our own identity in the independent existence of the material world, and a belief in the evidence of our own memory. Two analogies or coincidences are traceable between these and the axioms of geometry. 1. That from neither of these classes of truth can any direct inference be drawn; abstracted from other truths they are perfectly barren and useless. As no one can by simply poring on the geometrical axioms come to any conclusion, so by simply knowing the truths, I exist, I am the same man to-day that I was yesterday, &c. we can never arrive at any conclusion respecting the order of nature. 2. The second analogy is that a conviction of their truth is involved in all our reasoning processes. In all our investigations concerning physical truths, we take for granted that there is a material world, existing beyond the world of ideas within us; and that the laws of nature will remain the same for every succeeding day. As for our belief in our existence, in our continued identity, and in the evidence of our memory, they are taken for granted in all our reasonings whether relating to mathematical or physical subjects.

Answer 6th.—Abstraction is that act of the mind by which we take into our consideration some of the properties of an object, in exclusion to all the rest.

The undistinguishing nature of our first perceptions often leads us to classify under the same general terms, all things which appear to resemble each other. Thus the names of particular objects often come to be the common appellations of species, because we are generally led to apply the names of particular things to all other things which bear a certain degree of similarity to it.

To explain the nature of the aid which general terms lead to our general reasoning, we must take into our consideration the process by which we transfer our particular conclusions to general propositions. For it is an undisputed truth that in demonstrating a general proposition we first demonstrate it with respect to a particular case and then transfer the particular conclusion to our general proposition by means of general terms; for Stewart enunciates it as a general law of logic that whatever things have the same name applied to them in consequence of their being included within the terms of the same definitions, are included within a demonstration where the terms of that definition are the data of our reasoning. From this it is evident that without general terms all our conclusions would have been limited to particular objects as we could not have transferred these particular conclusions to species and genera. Words help us to analyze our thoughts, being themselves the monuments of an analysis, and by that means, vastly help us to carry on our reasoning processes. In the explanation I before gave respecting the formation of general terms, I pointed out the loose way in which they were formed but it is necessary that they might lead to correct results in our general reasoning (as I just now showed that they are indispensibly requisite for this latter purpose) that they be founded on a process of philosophical abstraction. Therefore we must distinguish between these two different classes of general terms.

Afternoon Paper.

Answer 1st.—The two different processes are, 1 to demonstrate the proposition with regard to the individual diagram before us, in which we take into our consideration, the properties of a circle or triangle only as applied to that particular diagram, 2 to transfer our particular conclusions, from the individual diagram before us to all figures comprehended under the same definitions. As the latter process is in all cases essentially the same, we by degrees drop it, and then forgetting the successive steps, we imagine that the general conclusion is the result of a general demonstration. That the process here described really takes place will appear evident by considering, the steps over which a young geometer must pass to acquire a perfect knowledge of a geometrical demonstration. The young tyro, has a tendency

tendency at first to make the figure in his own slate, an exact facsimile of what he sees in the margin of the pages of Euclid, he places the same letters respectively as they stand in the book and feels satisfied with respect to the truth of the proposition when he can completely follow the steps of Euclid. This shows that his whole attention is engaged in proving the proposition with respect to that particular diagram. He can easily understand any change in point of size or magnitude, but what difficulty does he feel when the figure is inverted or presented under any other position or aspect. The truth of our assumption appears more clearly when the novice has to study a proposition in which the same demonstration applies in the same words to different cases. Far from appreciating at first that the same proposition applies to all cases which are included within the terms of the enunciation, he repeats again and over again the demonstration, and applies it to one and then to the other figure, and finds with a mingled feeling of pleasure and surprize that it applies equally to both. The analytical method of demonstration places the same remark in a stronger point of view. The proposition is demonstrated by general rules which serve in all cases, and their extensive utility is only perceived by a subsequent process of the mind. For the purpose of establishing the truth of the last remark, Stewart quotes Hally's account of his discovery of the formula for finding the conjugate foci in Optic lenses, in which the circumstance that the same formula applies to all sorts of lenses was discovered only by subsequent trial.

Answer 2d.—This extensive utility arises in the first place from the peculiar nature of the truths about which mathematics is conversant, on account of which peculiarity real cases will turn out approximating far more nearly to those which the definitions of the mathematician describe, than can be found in any other hypothetical science. If we can be certain with respect to this particular circle that all its radii are accurately equal to one another, our conclusions with respect to it must be mathematically certain, but this can never happen in practice. But in proportion to the accuracy of our data will be that of our conclusions, and it fortunately happens that the same impertions which limit what are practically attainable in the former, also limits in the same proportion what is practically useful in the latter. The peculiarity in the mathematical science arises from the peculiarity of the objects (figure and magnitude) about which it is conversant, and the accuracy to which we are capable of arriving (in consequence of that mensurability which is common to all of them, assisted by the wonderful delicacy and fineness which the instruments of the present age has attained) in calculating our data, has given a precision to our results in practical geometry, far beyond the ordinary demands of human life. This peculiarity, also which led Stewart to call magnitude and figure, the mathematical affections of matter, makes these properties, the attributes of space no less than of matter and therefore we can separate them in act no less than in thought and they are not liable to those accidents which vitiate our conclusions more or less in other branches of science. If we are therefore at due pains to ascertain our data our conclusions may be depended on within very narrow limits and the limits also of possible error can in every case be themselves determined. Thus in measuring the height of a mountain if our data be correct and we reason logically from them the result will be very nearly accurate. But in proving any proposition respecting the lever we must leave out in theory many considerations (as its weight) which palpably affect it in practice.

Answer 3d.—The whole plausibility of this opinion is derived from a play upon words; because the laws of nature and the laws which regulate the moral world, although both are called laws, are completely different in their significations. The agreement of the latter with the nature of things does not depend upon their being observed or not, but upon the reasonableness, the moral obligation of the laws; whereas the former being drawn from an observation of facts, in the general agreement consists the essence of the law. So that it can no longer continue to be a law of nature if any exception to it turned up. So that it is a mere quibble to say that the laws of the material world are better observed than those of the moral world.

Answer 4th.—The term probability in its logical sense applies to all sorts of evidence not based upon hypothesis and definition, so that in this sense it is not opposed to what it is certain but to what admits of being demonstrated after the manner of the mathematicians. In its vulgar sense it is applied only to those events which are expected with some degree of doubt and hesitancy. The probable evidence of the logician consists of a series beginning with bare possibility and terminating in moral certainty which is the highest degree of evidence attainable in moral subjects and to which the term probable will be applied by no one except a professed logician. Thus the rising of the sun to-morrow, the expectation of a man's death, though certain with respect to the generality of mankind, are classified with probabilities by the logician.

Answer 5th.—Stewart defines experience to be that species of evidence in which the same effect is inferred from the same cause under circumstances exactly similar; so that where there is the slightest difference with respect to these, the evidence cannot be called that of experience but of analogy. Thus in common language we are said to infer the fall of one stone from that of another or even from that of a leaden bullet by the evidence of experience which however is inaccurate. The evidence of experience therefore leads us to infer (with respect to the future) the same effect from the same cause acting under exactly similar circumstances. The evidence of analogy leads us to extend our inference from one case to others which appears to be similar to it. We are led by a natural principle to classify under the same common appellation all things which appear similar to one another and it is in this manner that what are vulgarly called general terms are formed and not by any philosophical analysis of the properties of the things which they represent, they are therefore extremely

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loose in their signification. But general terms formed for the purpose of assisting us in our philosophical investigations ought to be founded on an accurate analysis of the nature and properties of things and by means of a very careful abstraction. We must distinguish therefore between, notions which are general merely on account of their vague and ambiguous signification and those which are general because they are formed by a careful abstraction of things and facts.

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Senior Scholar of the First Grade.

ENGLISH ESSAY

On Language as an instrument of civilization, with special reference to the effects which may be expected from the diffusion of knowledge through the medium of the English language in India.

The causes which chiefly affect the progress and improvement of mankind, are so much beyond the sphere of common observation, that to comprehend them truly would require a thorough knowledge of the human mind. It cannot be doubted that the amelioration of man's state, has often proceeded from purely external causes, such as the influence of climate and religion. But religion is nothing more than education in the highest sense and the influence of climate is not so great as is imagined; for the greatest diversities of intellectual and moral character prevail among men born in the same climate. We are to acquiesce in the judgment of King Archedamus, as says Dr. Arnold, that culture and training makes the only distinction between one man and another. It is education therefore which has mainly operated in altering the condition of man. It is to the different degrees of knowledge, possessed by different nations that we are to seek for the true cause of the marked superiority of one race over another. That knowledge is power is nowhere better exemplified than in the present condition of the different nations inhabiting the globe.

Language is the chief instrument employed in imparting knowledge to another. The only medium through which we can successfully communicate our thoughts, is language. If there had been no such conventional mode of expressing the results of our enquiries, society would have been stationary and the progress of mankind would have been held desperate. Without language, experience would have been useless and information a mere matter of curiosity. What advancement can we expect in knowledge, if in the language of Lord Bacon, there be no "learned experience" or experience reduced to writing. To carry on any process of reasoning, language is the only instrument we use. The aids which it furnishes to abstract reasoning are indeed incalculable, so much so, that we often think as well as speak by means of words. The starting point from which we set out and the consequences we deduce from it, we frequently forget, but the last result remains in the form of symbolical expression of our thoughts, a living monument of the truth we have arrived at. Nay, it is not impossible to suppose (as it frequently happens in the exact sciences) the conclusion, to include conditions which we never contemplated and to comprehend in a single proposition, the principles of a science. The advantages derived from language in mathematics are so great that some have been led to suppose that a progress similar to that made in it, might be effected in the other sciences, if the terms be made as perfect. A celebrated French author has not scrupled to say that reasoning is nothing more than a language well arranged. But not denying the efficiency of language as an instrument of thought, we may assert that the peculiar nature of the evidence which belongs to mathematical truths arises not so much from a correct phraseology as from another source which it would be out of place to mention here.

The abstract sciences such as political and mental philosophy, might be supposed at first by a superficial observer, to have no connexion whatever to the progress of civilization. Speculations on these subjects may seem not only abstruse but totally unconnected with the practical affairs of life. But when we reflect that what is a principle in science becomes a rule in art, that what is barren and unmeaning in itself becomes fruitful and significant in its application, then the apparent objection loses its force. Of the connexion of these sciences with language, it cannot be denied that the successful cultivation of the former depends upon the perfection of the latter. It follows therefore that society cannot advance in civilization where the sciences are uncultivated, or where the language has not arrived at a sufficient degree of precision and correctness. The English language has acquired a currency and diffusion through her vast conquests and colonies, unexampled in the history of the world. It seems to be in the progress of being made the general language of mankind. It is to be regarded as one of the wonders of this age and a manifest indication of the dispensations of Providence, that in India, the language of England, is daily acquiring a more general currency. What would be its ultimate effect on the melioration of this country, the social and political condition of its inhabitants, it is yet in futurity to determine. But from the progress which it has already made in imparting sound and useful knowledge, it is possible to suppose that its influence will be continually increasing, that the language of scholarship and science of India, would be decidedly the language of its conqueror and that the education of its people would be conducted through the medium of a foreign language.

language. The advantages to be derived from the diffusion of knowledge by this means, are indeed immense.

The discoveries in science, the knowledge of the physical comforts and conveniences of European life, the principles of Government, Institution and religion which prevail there, can all be learnt from the perusal of books in the English language, and may be thence made available by the people of this country. But the greatest effect remains to be mentioned and that is, a taste for European literature. A taste for the beautiful and sublime, a craving after truth and abhorrence of falsehood, a notion of moral beauty and deformity, these are the last and crowning effects of the diffusion of knowledge through the English language. What are external advantages compared to these! The highest earthly fortune dwindles into nothing in comparison with them. The thoughts of the greatest men, "thoughts that breathe and words that burn" would be then always present to our mind. They would take "such deep root therein" that they would form a portion of the mind itself. Milton and Shakespeare and Bacon would furnish us with thoughts that "reach beyond eternity" and "sentiments that lie too deep for tears." Such sentiments as,

"I care not fortune what you me deny
"You cannot bar me of free nature's grace," &c.

cannot but elevate the mind and awaken in it an aspiration after a purer state of being where all earthly distinction should cease and the ultimate triumph of virtue and truth over vice and falsehood should be consummated. If there be any such state, as the very imperfection and weakness of our nature leads us to suppose, it is a "consummation devoutly to be wished."

Isser Chunder Dass, Hooghly College,

Senior Scholar, Fourth Year, First Class.

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1. The close connection subsisting between language and our thoughts cannot fail to be the subject of observation to every one who has ever turned his thoughts to the operations of his own mind. In consequence of this connection, words have great influence not only on the communications of men with one another but also on their solitary speculations in private. But if this be the case even with the educated part of a nation, and if it true that words inaccurately abstracted from things would sometimes impose even upon those who are properly trained in the analysis of their own thoughts; how much more must it be the case with the vulgar who have seldom the opportunity or the inclination to examine any point even with the slightest degree of attention. These, generally take, upon trust, every thing relating to faith and the other higher concerns of life. They are therefore generally misled in their opinions and thoughts, by a language carelessly formed and not expressing the real nature of things.

This is a source of general error which must remain in the language of even the most civilized nations. The reason of this, is simply because language must exist before philosophy comes to be cultivated and the corrected phraseology becomes current only among the learned but is quite unintelligible to the mass of mankind. But it is surely true that as a nation advances in civilization its language becomes more and more definite and expressive of the real nature of things.

The highest point of civilization therefore which I can conceive, is that state of a nation when its language has arrived at such a degree of precision, that every word expresses the same idea to all men and its signification corresponds with the nature of things. But this degree of perfection in a language is merely ideal.

The acquirement of the vernacular language is the only species of education (if I may be allowed to call it so) which *all* the members of the society can attain and therefore the degree of civilization to which a nation has arrived, will be always proportional to the perfection of its language.

If a person wishes to inculcate a philosophical principle in an uneducated mind his arguments are generally refuted by the assertion, that "your reasoning is contradicted by the meaning of the words you employ" and it would be an altogether fruitless attempt to convince the vulgar that the meanings of words are no sure tests of the correctness of the ideas we attach to them. Thus, if a person liberally educated, tries to convince the common people of this country, that the cause of the sun's being eclipsed, is not because he is devoured by a monster, he will immediately be answered that the very meaning of the word *eclipse* shows that it must be as they believe. The phrases "sun rises and sun sets" might also mislead the multitude and be an argument in favour of the sun's daily motion.

2. In inculcating any truth in the minds of our hearers, the force of language, has a great influence in producing conviction.

It is from this source that the whole efficacy of eloquence proceeds. It is not only necessary that what we assert should be true but if wish to bring over others to our opinion and gain their belief, we must express our sentiments in such a manner that they might strike the auditors with a conviction of their truth. Hence in educating youths (and no one will doubt the influence of education on civilization) if the vehicle by means of which the truths are conveyed, be such that they find their way directly home to the hearts of these young hopes of a nation, the work of civilization must be greatly facilitated.

That the impression which any truth makes on a man's mind, has reference to the

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vehicle by means of which it is conveyed, will not be disputed by any person who reflects for a moment on the nature and uses of the arts of eloquence and poetry. Who can ever forget any of those deep truths conveyed in the impressive language of Shakespeare and Milton? Whenever we happen to reflect on these truths the words of Shakespeare immediately recur to our mind. His mode of expressing his ideas, is such that they force their way irrisistibly to our hearts. Let the same truths lie expressed in any other style, and we will pass them unheeded by.

It was for this same reason that the ancients made the language of poetry, the instrument of imparting, their precepts and moral lessons, alike, to men and children. Even their histories were written in poetry.

It has been said that the great civilizers of mankind were not the legislators but the poets, and that Homer and Hesiod were greater benefactors of mankind than Lycurgus and Solon.

The degree of refinement to which a nation has arrived is always surely indicated by the state of its language. If there were no other remains of the civilization of ancient Greece, Rome and India than the Greek, Latin and Sangscrete languages, these would be quite sufficient to establish their claims to the highest rank of the ancient world.

3. Those who have turned their thoughts to the successive stages through which Europe has passed in arriving to its present pitch of civilization, must have noticed the great changes brought about, by the revival of the study of the Greek and Latin languages. The age of Erasmus was a distinguished æra in the history of European civilization. It was the influence of Greek and Latin literature that changed the barbarous Goths, Visigoths, Ostragoths, Lombards, Franks and Germans, into the civilized nations of Modern Europe. If it be true that these have at present attained to the highest degree of civilization that was ever known in the world, yet it must be confessed that the first impulse to this civilization was given by the literature of Greece and Rome. If it be true moreover that the influence of the dead languages of Greece and Rome had so great an effect in changing the barbarous hordes that subverted the Roman Empire, into the most civilized nations on the face of the earth, what might not be expected from the cultivation, of the languages of these nations whilst they are yet in the vigour of their career of improvement, unimpaired by the influence of time, I say, what might not be expected from the cultivation of these, by the inventive genius of the East. The Europeans moreover could not learn these languages from the mouths of Greeks and Romans but we have always the opportunity of receiving the knowledge of the European languages, "fresh from the fountain whence it flows." Our theoretical errors respecting them can always be corrected by our conversation with the learned to whom they are vernacular. We may "catch their manners living as they rise."

In taking a retrospective view of the condition of India, we find that though she was *once* the cradle of civilization, yet the lapse of ages and the cruelty of the bigoted Mahomedans had deprived her of every token of active civilization. The Sangscrit itself has become a dead language and the different vernacular tongues have scarce begun to be the written languages of the country.

It was under these circumstances that the English language was introduced into this country and the effects have already begun to be manifest. We feel the influence of Shakespeare and Bacon upon our minds, we feel the deep impression they make, we become convinced that these impressions are not to be effaced by the lapse of time and that they must influence our actions. The Sancrete is a dead language, bringing to our minds, ideas of antiquity which bear no relation to our present life and therefore though it might afford us literary amusement, yet it cannot direct us in our conduct through life. Its literature might give us excellent notions of sublimity and beauty but it can give us no lessons suited to our present condition.

Our vernacular is yet in its infancy and has no literature properly so called. We must then look up to the English language as the only means which can help us to improve our condition. It has been predicted, that the English would be the deplomatic language of this country, "that the nations of India speaking a variety of vernacular tongues shall communicate with one another in English about literary and scientific subjects." A language serving such a purpose becomes a powerful instrument of civilization to a nation. The convenience of having a common language by means of which we can communicate with one another, about the higher concerns of life, is of high value. The attainment of that single language enables us to master the whole literature and science of the country. So that the English language will serve a very high purpose, if it enables the different nations of India to communicate with each other through its medium.

I can moreover foresee that its vernacular languages, beginning to flourish at the precise time that the English language, began to be cultivated, will take a tincture from it. This has already happened to be the case with the written Bengalli, the greatest part of its present literature consisting of translations from the English.

The consequences of the cultivation the English language are beginning to be perceived.

English notions and ideas have begun to prevail generally and the work of civilization is going forward with rapid strides. The æra of a great revolution is fast approaching. Opinions and practices that were once ignorantly held sacred are now beginning to unloose their hold on the minds of men. But so beneficial is the influence of knowledge under all circumstances, that this revolution is going forward unperceived, without any struggle or convulsion. It is produced not by the exercise of any external force but by the conviction of truth. The spread of English literature has taught men to think more liberally and act more generously. The impression of ideas that are noble and are therefore congenial to

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the mind of man when unbiassed by prejudices, and imbibed from early youth through the medium of an energetic language, cannot fail to have its desired effects, and accordingly the system of educating Indian youths in the literature of Europe has been the source of great benefit to the country. The remarkable aptitude of the Indian races coming in contact with the exertions of the vigorous intellect of Europeans promises the production of something wonderful. Their perseverence in always adhering to what they believe to be the right when properly directed by those impressions which they derive through the medium of the English language, will one day make them capable of achieving great things.

MOHENDRO LAUL SHOME, Hindu College,
First College Class, Senior Scholar, of the First Grade.

LIBRARY EXAMINATION.

Questions and Answers for Library Medal.

1. Macaulay says "the end which Bacon proposed to himself was fruit."
"This was the object of all his speculations."
Does Bacon's Philosophy consider the physical and perishable conveniences of life man's highest good?
Support your opinion by quotations from his writings.
2. Did Bacon foresee the *gradual ascent* which Science was destined to make from his time?
And shew, by an example from Whewell's Philosophy of the Inductive Sciences, that a general law includes within it all the less general laws of the same class.
3. State the objection of Hallam to the use of the English term "*idols*" from the latin "*idola*" of Bacon.
4. Did Bacon expect that Philosophy was destined to arrive at *efficient* causes?
What is Hallam's opinion of Bacon's anticipation?
And Dugald Stewart's?
Why does the latter call *efficient* causes "*metaphysical*" and "*necessary*"?
5. The difference between the "*Forms*" of Plato, of Aristotle, and of Bacon.
6. State some of the advantages for the formation of a method of Discovery possessed by Philosophers of this age, but which were wanted by Bacon.
7. The most striking particulars in which the Logic of Bacon differs from that of Aristotle.
8. Bacon's opinion of Plato's Philosophy as compared with that of the earlier Greeks.
Macaulay's remarks on it.
Hallam's remarks on Bacon's objection to the mixture of *final* causes in Plato's philosophy.

Answer 1st.—Bacon's Philosophy did not consider the physical convenience of man as the highest good. The contemplation of truth was a far nobler object for the satisfaction of one that was endowed with the powers of reason. That he considered the latter as superior to our physical pursuits may be gathered from many of the passages from "The Advancement," "The Novum Organum," and others of his works. In his Essays he places the Essay on Truth before all others and even in the Novum Organum (the work which is to be considered as the great usherer of his philosophy), the same compliment is paid to truth by placing truth before utility. Again in his Advancement, when answering the objections of some of the divines against learning, he plainly says that nothing can fill, much less can it swell, the mind, but God and the contemplation of God. Lastly, when speaking of the object of learning, he says that in it is to be sought a house for the relief of man's self, and *the glory of the Creator*. Macaulay has said that the great object of Bacon's works, was the discovery of works. But in laying tress upon this he has, as Whewell well observes, left out the first and the better part of the passage. Bacon's great object was, first *ascending up to axioms* and then *descending to works*. But yet it may be asked why he laid so much tress on the discovery of work? The truth seems to be that Bacon was no less a sincere worshipper of truth than any of the ancient philosophers; but he liked to devote his time for the advancement of useful knowledge. The reason is obvious. All his predecessors have given themselves up to the contemplation of truth; in them truth has found many sincere and zealous devotees; but the temple of Nature was entirely forsaken. Truth could not lose much by the falling off of a single votary. So Bacon in a truly chivalric spirit took the neglected and oppressed beauty under his protection, fought for her, and restored her to a throne from which she had been violently thrusted out.

Answer 2d.—That Bacon foresaw the gradual ascent which science was destined to make from his time evidently appears from some parts of his writings when he positively and exultingly speaks of the advances which it was to make. He says that the work to which he was the first to direct the attention of mankind, could not be finished by the endeavours of a single individual, but required the joint labours of ages to bring it to perfection. He himself ackowledges that the tables which he constructed were not perfect, nor could it expected

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that they should be so. Ages were to be spent in collecting materials, ages more in digesting them into tables and classifications, so that these classifications large and extensive as they are, were to be disposed of in laws of the lowest degrees of generality; and from these and other facts were to be collected laws which were next to it. In this way all the advances in the experimental sciences are but the successive steps of a great generalisation. Excellent examples of this generalisation are given in Whewell's Philosophy of the Inductive Sciences. The law of universal gravitation is a general law which has been arrived at by the successive generalisation of a variety of facts and laws less general. In the earliest dawn of the Greek Philosophy the motions of the heavenly bodies were considered as subject to no definite law; after the Greeks made some progress in it they found that all of them appeared to move round the earth, some in an equal, others in an unequal and varying interval of time. But even their irregular motions were classified by them, and Ptolomy supposed that they moved in epycycles. Here was a law which seemed to explain a great variety of phenomena; but though it succeeded in explaining a great many facts, the retrograde, stationary and direct motions of the planets could not be accounted for. So when Copernicus flourished he supposed the whole system to revolve round the sun and not round the earth. This was in his time merely a hypothesis which was afterwards confirmed by facts. But although Copernicus rightly supposed the whole system to revolve round the sun he could not explain how these bodies were retained in space. Neither did his successors Galilio and Keplar, (the former of whom supposed the moon to be attracted by the earth, and the latter discovered their laws, of the elliptic motions of the planets, the equal description of areas in equal times, and the periodic times of the planets,) arrive at a general law by which the whole system of the world was regulated. It was left for Newton who from the observations and laws found out by his predecessors, and also from his own obvervations proved the universal law of gravitation. So in this law all the former laws, those of the elliptic motion, the description of areas and the periodic times of the planets were included.

Answer 3d.—The chief objection of Hallam to the use of the English word *idol* for *idola* seems to be that the English word does not express the same thing which the author means to be signified by idola. Of this distinction the author himself was perfectly conscious; but the error into which some of the later writers have fallen renders it necessary that the distinction between these words should be sufficiently explained. The idolas or the false appearances of the mind are those by which we are misled not knowing that they exist. They deceive us unknowingly. But the term idol signifies a false deity to which we bow down and offer our worship in preference to what is true. The idea of a idol seems to signify that we are conscious of its existence though we take it in a mistaken sense. But the existence of the idolas or the false appearances is never known to us. The one seems to deceive us unconsciously, the other by its appearance though in a false dress.

Answer 4th.—Bacon it seems inclined to the opinion that the inquiry and the discovery of the efficient causes of things was within the province of human knowledge. In his Advancement he says that the enquiry about the final causes is useful, but the enquiry about the forms of things, that is, their internal organizations and formations, was useful in the production of works. According to this view of the question he seems to think it possible that we may know the internal structure of gold, and thus produce gold, that we may find out the forms of motion, heat, &c.

To this opinion Hallam consents. He says that though we have not yet arrived at what is called the efficient causes of things, the discovery of the modern philosophers have advanced much nearer to what was so sanguinely anticipated by Bacon; so that though it has not yet been done, the possibility of such a work may be entertained. To this Stewart objects saying that Bacon was led too much beyond the limits of the physical sciences by an uncommon success in his speculations; a fault which as we know great intellects are liable to fall in.

We may mention the name of Lebnetz as having the same turn of mind. But to proceed, efficient causes as Stewart observes, cannot be exactly explained. Physical causes are what we may be said to know; but they do not explain the phenomena. Physical causes are but forerunners of particular events; we see them constantly conjoined; but how they are so linked together, whether the connexion is necessary, we know nothing about. Hence they cannot be called necessary causes. The idea of an efficient cause exists in the mind only. When we see an action we necessarily and as it were, by the constitution of our mind, think there must be a cause of that action; but what that cause is we cannot determine. Hence efficient causes are called metaphysical causes since they exist in the mind alone.

Answer 5th.—The forms or ideas of Plato were the architypes of things. "The idea of a thing," says Plato "is that which makes one of many, which running into and mixing with things infinite, preserves its integrity and nature, so that under whatever disguise it may be concealed we may find it out." According to Plato there were some perfect models made by the Divine Hand which the things in nature partook. These models were called by Plato the ideas of the Divine Mind; so that there were ideas of beauty, greatness, wisdom, &c., and the things which partook of these ideas were called by these names. Things which partook of beauty were called beautiful, things, partaking of greatness, great, and those of wisdom and nobleness, wise and noble. The forms of Aristotle were the architypes of natural things. The ideas and *forms* of Plato and Aristotle may be at first thought synonymous. But there was this distinction among them. The ideas of Plato did not exist in things; they had an independant existence; but the forms of Aristotle were impressed in matter. They existed with matter but they were not eternal like the Platonic ideas; matter could exist without form, but form could not exist without it.

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The forms of Bacon were quite different. By the word form Bacon meant laws of nature. "When we mention form" says Bacon, "we mean nothing more than laws in subjects of simple nature capable of having them; so that the forms of heat, weight and light are the laws of heat, weight and light."—Bacon's Novum Organum, part II. as quoted by Stewart part II. sec. VII.

Answer 6th.—The advantages which philosophers of the present day possess are various. Bacon in forming a method of discovering the laws of nature had none to assist him. Nay he could not disclose his design to any body without meeting with a sure rebuke for his presumption. In his times science was not formed so he could not take a single example to prove the truth of his rules but was obliged to find out the rule and the example himself.

At present great discoveries have been made in the different branches of science by different persons, so one may just refer to the works of these without much difficulty; and these discoveries are the principal things which throw light on a rational system of logic. So fully has the prophecy of Bacon been fulfilled that the art of discovery will grow with the arts themselves.

Answer 7th.—The Inductive logic of Aristotle and that of Bacon agreed in one thing that both referred the discovery of the laws of nature to observation; but otherwise they differed greatly. The method of Aristotle collected laws from the simple innumeration of a great many instances without rejections of those which seem contradictory. But Bacon would not be satisfied with such a system of logic. He required a method which would sift nature by proper examinations and rejections, guard the senses, from giving false reports, and correct their incompetency by substitution and rectification. He would then proceed gradually from one law to another always considering the nagative instances as of greater authority than the affirmatives, till he arrived at laws of the highest degree of generality. But with Aristotle the case was otherwise. He took some vague and imperfect notions from external natures, formed laws according to his own conceptions, and applied them to explain all the phenomena of nature. But if any phenomenon happened which seemed to overset these laws, he instead of correcting them would endeavour to strain it to these or save them by subtle distinctions to preserve the first authority of his choice. Well might a philosopher say that the induction which proceeded this way by simple enumeration is a childish thing.

Answer 8th.—The philosophy of Plato which aimed at the contemplation of final causes, was not a philosophy destined to produce fruits, but like a virgin devoted to the contemplation of God, remained barren.

All the Greek schools of philosophy except his, had some thing which smelled of natural philosophy. The atoms of Luceppus and Democritus, the Hoiememora of Anaxagoros, the amity and enmity of Empedocles, the heaven and earth of Permenides, all bespoke something of natural philosophy. But the philosophy of Plato was not of that kind. Undoubtedly if the tree, which, as Macaulay well observes, Socrates planted, and Plato watered and cherished, is to be judged by its flowers and blossoms it is the most beautiful and pleasing, but it did not produce much good fruits.

Bacon says that the contemplation of the final causes cannot be of any use in the discovery of the laws of nature; but in this Bacon, it seems, was somewhat mistaken. The consideration of final causes as Stewart and Hallam have shown, led to some of the most important discoveries. The discovery of the circulation of the blood by Dr. Halley was made by the consideration of the final cause of the valves in the veins and arteries. The consideration of the final causes as Stewart has shown by a great number of quotations and examples is of great use in animal anatomy.

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HISTORY.

ARNOLD'S LECTURES.

Answer 1st.—The fall of the Western Empire, according to Dr. Arnold is the separating limit between Ancient and Modern History; and in my humble opinion he is perfectly justified in the selection. The present state of affairs existing in Europe commences from this period. "History so far" says our author "is the biography of the living, beyond it, it is the biography of the dead." At no other period before or after it, can the four great elements of Modern nationality in Europe be found to have met together. Successive ages have used and disposed these elements differently but they have added no new one to them; so that the fall of the Western Empire divides the broadest line those two periods of the history of the European nations which are designated by the names of Ancient and Modern History. By the four great elements of nationality I mean race, language, institutions and religion. The births of the different nations in Europe, will perhaps afford much light on the subject. The English nation whose power is now acknowledged in every quarter of the globe do not owe their origin to the Romans who first conquered Britain. They were strangers to Greece and strangers to Israel; not one drop of their blood has been borrowed from any but the Saxon source. The same is the case with their neighbouring nation of

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France. Though there is a mixture of the Gallo-Roman origin in them yet the stamp is predominantly German. Clovis and his followers had the greatest share in forming the population of France. If we take to our consideration the origin of other nations we shall find that it is after the downfall of the Western Empire that these nations were born. The limit assigned by Dr. Arnold therefore is not arbitrary. It is not mere chronological but is founded upon a very solid and tangible basis.

Answer 2d.—Mosheim in his classical history quoted a passage, which by mistake he attributed to Elgius Bishop of Eloy, regarding the depraved state of morals in the seventh century of the Christian era. It is to this effect that any man who in the period above alluded to did not try his main and might to add to the influence and riches of the clergy was accounted as the most wretched and impious of all mortals. Robertson in his notes to Charles V. without taking the trouble of referring to the text quoted the remark from Mosheim; and at length Dr. Waddington adopted the selfsame passage in his works. But being led to inquire further into the matter, Waddington after many fruitless attempts found the whole passage not in Elgius but in Dácheri one of the Benedictive writers. Thus we find that three writers of the greatest celebrity have been led to a strange error from one garbled extract.

Answer 3d.—Italy consists of number of low valleys pent up between many steep hills and mountains. These valleys have an existence quite independent of each other, in so much that many of the inhabitants of one of them are foreigners to one another; so that it will not appear very strange to say that when two of the Neapolitan naturalists went to visit an erruption of the Majella in Abruzzi, they found there many medicinal plants which their countrymen were in the habit of importing from distant countries. The Appenine chain running down from the north to the south of Italy, the Alps on the north, the arteries and veins of the Tiber—the river on whose banks stood that seven hilled city whose name is still cherished by all the nations of the world as the parent of arts institutions and civilization—the basin of the Po, all present a very grand picture to the mental eye of the observer. "Italy" says Dr. Arnold "is like a great backbone thickly set with spines." Steep hills and mountains rise on all sides, and low pieces of habitable lands are intercepted between them. The salubriousness of the climate, in some parts of this peninsula, where every gale is odour and every breath is peace, large tracts of land lying uncultivated and uninhabited; and the beautiful valleys of the Campana teeming with olives and roses, all prepare a most delightful banquet for the patient observer. Washed by the Mediteranean and Adriatic, on three sides, Italy appears like a long strip of land intersected by mountain sceneries of unusual grandeur and sublimity. The physical resources of the country, the majestic range of mountains running down through the middle, the fecundity of some parts, the beautiful cornfields smiling with emerald verdure, and gladdening the heart of the innocent peasant at every undulation of the green blades, the citron groves spreading their luxuriant branches, all all inspire the mind with delight and joy. But Italy is unhinbated in many parts, a circumstance which has given rise to occasional robber habits of the inhabitants. Here ends our faint description of a land which at one time gave law to the world, but which now is entirely fallen from that enviable position she once occupied in the annals of mankind.

Answer 4th.—In the study of Modern History the first thing that attracts our notice is the consolidation of small independent states into large kingdoms during the last three centuries. The incorporation of England and Scotland, and subsequently that of Ireland into the vast kingdom of Great Britain is of modern date. The acquisition of Franche Compte and Provence and the subsequent addition of Bretaign, Avignon, Alsace and Vosges, are works of later times, Spain and Portugal were united under one sovereign; and the coalition of the Spanish and Austrian territories is the grandest illustration of the tendency above alluded to. The destruction of the free cities of Germany with the exception of Bremen, Frankfort, and Lubeck, and their formation into a vast kingdom, the kingdoms of Bohemia, and Hungary, the rise of Russia into the most collossial of empires, the kingdom of Sardina which absorbed into itself Venice and Milan, all clearly demonstrated the undoubted tendency which the last three centuries had to the annihilation of petty independent states, and their consequent coalition into vast empires. Venice destroyed the independence of Padua and Verona, Florena of Pisa and the territories of Ferrara and Urbino were included with the dominion of the Popes.

Answer 5th.—First of all the rise of the Austro-Spanish power which threatened the independence of the other European states presents itself to our view. The marriage of the heiress of Burgundy with the Arch-Duke Maximillian added Franche Compte and the Netherlands to the Austrian dominions. The subsequent marriage of Philip, Miximillian's son with Joanna of Spain daughter of Ferdinand and Isabella, gave to Austria the whole inheritance of the crown of Spain to which were added the kingdom of Naples which had fallen under the grasp of the Spanish monarch by the termination of the struggle between the lines of Anjou and Arragon; so that when Charles V., grandson to Maximillian ascended the throne of his father in 1519 he found himself in possession of a vast empire scarcely parralelled in the annals of modern Europe. But this power did not go unchecked. It was first opposed by France, kept at bay by Francis I., humbled by the successful alliance of Henry II. with the German Protestants, and finally dissolved by the abdication of Charles V. in 1555. His son Phillip succeeded to his Spanish dominions, and to the sovereignty of Naples; his brother Ferdinand to his Austrian territories. Thus passed away the first tempest of universal dominion without producing any serious injury to the affairs of Europe.

But Phillip by the extent of his possessions which were still considerable, the subsequent conquest of Portugal by the death of King Sebastian in Africa, and the vast possessions and riches which fell into his hands by the discovery of America and the conquests made there, excited fresh cause of alarm. France was now very much distracted by civil and religious wars, and the danger of his power became imminent. But it was finally checked by the revolt of the Netherlands, the opposition of England and the return of France from the civil wars which raged among her sons.

The dominion of Ferdinand 2nd again, excited general alarm. The conquest of the Palatinate in 1622, threatened the permanence of all the independent states. The power which principally opposed this was that of Sweeden. Austria was driven out of Lombardy by the peace of Westphalia in 1648 and after the conclusion of the peace of Pyranees in 1659, Spain retired for ever from the foremost place among European states.

The dominion of Louis 16th rather than that of Richelieu now took the most formidable aspect. His possessions were not very extensive, but the forts of Lisle and Dunkirk furnished him with a very great advantage. The French navy has now risen to the sovereignty of the seas. The opposing power now was England. William the third checked the power of Louis; Marlborough and Eugene overthrew it. Louis was now at once laid prostrate before England and he was only saved by a party revolution in his favour in English ministry. Though the peace of Utretcht in 1713 gave to the French prince Phillip the succession of the crown of Spain, the terms which it actually involved were extremely humiliating to Louis.

Then followed a peace of nearly 70 years; after which England became in some measure the "principal centre of action." The possession of the different states of North America, the high pretensions of her naval code, and the vast extent of her colonial territories again excited general alarm. Not only France and Spain but her old ally Holland took part against her in the American war, but the enmity against her did not survive the loss of some of her valuable possessions in America.

But the most violent crises was in the beginning of the present century. The most military people in Europe became engaged for their very existence. The French Republic cradled *a origine* in war, was became now engaged in the accomplishment of a grand scheme of universal dominion, scarcely parralelled in the history of any other continent. "The ordinary relations of life" says Dr. Arnold "went to wrack" and every Frenchman became a soldier. "At length as if Providence seemed at first to further the ambitious views of France, her forces were at length furnished with a commander whose military abilities made him fitter to undergo all the privations of war and to carry on the grandest scheme of universal empire. This commander was *Napolean* of whom Lord Byron has so finely said.

"Conqueror and captive of the earth art thou"
"And thy wild name, &c."

He assembled his mighty host of 4050000 efficient soldiers and at every way of his advance swept away a kind. Though the coalesced powers of Europe were eventually succeeded against him, yet the preservation of Europe from the hands of this wonderful genius Dr. Arnold has very justly attributed to the immediate interference of God and God alone. We give to Prussia, all the glories she achieved, to England, the honour of the crowning victory of Waterloo in 1815 but we cannot still deny that had not the signal failure of Napolean's expedition against Russia been not occasioned by a memorable frost, Europe perhaps would have still groaned under the thraldom of French tyranny.

Answer 6th.—The study of history both ancient and modern does by no means justify the belief that some nations are inherently superior to others. The judgment of King Archedamus is the best. According to him one man differs little from another, but training and culture constitute the entire difference. Nor does our past experience any way justify the truth of that Calvanism in matters political, which many have so strenuously supported. Judging from the experience of European history in the 18th and 19th centuries we find that France was actually superior to Austria and Spain in warlike habits and abilities, the successes on both sides were admirably balanced. While we find that Napolean was uniformly victorious, Frederick the Great gained many victories. The conquests of Napolean in Italy were equally balanced by the defeats of Moreau and Jourdan. The victories of Rosbach and Jenna counterbalanced one another. The military character of the Italians is now low yet without going to the Roman times, we find that Italy has still given birth to a Spenola, a Montecuculian Alexander and to the Prince of Parma. If we weigh the victories and defeats which the English have sustained in all their struggles with France we find that they are almost equally balanced. The defeats sustained by King John are neutralized by the successes of Henry V; and the uniform victories of Marlborough are counterpoised by the successes of Marshall Saxe and the Duke of Luxemburg over King William and the Duke of Cumberland.

Answer 7th.—It is impossible to conceive the unpardonable evils which generally accompany an irregular warfare. The cruel outrages of the irregular troops sparing neither sex nor age, the violent deaths and agonies of innocent sufferers, the terrible destruction of houses, and temples, in fact all the other inhuman actions committed by a set of ruffians let loose to revel in the boundlessness of rapine and carnage, cannot be justified by any means whatever. Even when a people's country is invaded, they have no right whatever to depart from the pale of civilized warfare. Battles must be fought at the country of either of the beligerents and it is an accident merely when the territories of a third party

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are made the scene of action. The invader of the country invades it with the prospect of an honourable peace; this is the true theory of the case. Are we justified in such cases to adopt the habits of a guerilla warfare, to shoot at stragglers and to rise promiscuously against the individuals of the invading army? But by no means if the invader wishes to complete the entire annihilation of a people he cannot now complain if his soldiers be promiscuously massacred. But even now if we consider the inefficacy of irregular army as a general rule in driving an invader from our country, and then weigh carefully the unspeakable horrors and atrocities which inevitably accompany these irregular risings we will find that the necessity of a standing army is absolute, and that all those irregular outbreaks of the multitude which many philosophers have so highly commended, cannot be allowed as they are generally found to be productive of more positive evil than of good.

Answer 8th.—Considering the feelings of the revolutionary party in France, whose political principles were thoroughly opposed to the anti-popular, towards the names of Brutus and Cassius, we are at a loss to find with what consistency were these names cherished by the members of the party alluded to, with all the honours of glorious martyrs to the popular cause? Critically analizing the different parties which existed in Rome during the times of Brutus and Cassius, we find that they were far from being the staunch advocates of the popular cause. They belonged to the high aristocratical party—the party which headed the proscriptions of Sylla—which played the most conspicuous part in the destruction of the Grachei—which strenuously opposed the communication of the Roman franchise to the other Italian states, and which resisted with great warmth and bitterness the enactment of the Agrarian laws. The rights and privileges of the ancient democracy of Rome were trampled by them to the dust and their honour and properties most eggregiously outraged. Far from being the true friends of the popular cause, the other members of the party Brutus and Cassius belonged to, were living examples of that iniquitous tyranny, which having bound hand and foot the quarter of the poorer population doomed them to all the miseries which grim-faced poverty and dishonour can entail upon mankind. On the contrary the individuals whom they opposed were thorough favourites of the republican party. Julius Ceaser, an opposition to whose ambition and glory immortalized the names of Brutus and Cato in the minds of the revolutionary party in France, was not as he has been supposed to be a member of the high aristocratical party; he was the darling of the populace and the lord of their hearts. I do not mean to say, that in his affection for democracy and its principles was the genuine offspring of a sincere and cordial heart, but that all his leanings and actions were apparently republican. When he entered Rome with his well accomplished legions the ostensible purpose which he held out was the support of the Tribunitian power; and it was his affection for the multitude rather than any extraordinary degree of disinterested patriotism which actuated Brutus and Cato in the violent struggle which they waged with him. To all the parties who are strongly of a popular cast such names cannot be cherished with great inconsistency as the beaux-ideals of true commoners; so that the revolutionary party in France were sadly mistaken in the conjectures that were made in this case.

Answer 9th.—The coincidence of a popular and a movement party is purely accidental. They disagree as often as they are found to agree. Phillip of Macedon whose extensive and unbounded ambition leads us at the first sight to infer that he belonged to the anti-popular party, is on the contrary found from experience to have headed the party of the movement while Demosthenes, who was strongly attached to the popular case, whose blood boiled at the very name of liberty and equality, was opposed to it. The Macedonian monarch, contributed though unintentially to alter the condition both civil and political of the different Greecian states while Demosthenes would have kept it quite unimpared. Add to this the example of Pericles. Though he was a member of the aristocratical party, he might be truly said to have headed the party of the movement in as much as he endeavoured to change entirely the face of political affairs existing in his time; and to raise Athens at the very summit of her glory and power. Thus we see that the popular party is not always identical with a party of movement; on the contrary the pages of history both ancient and modern furnish us with innumerable examples which have impaired this coincidence in no scant a measure.

Answer 10th.—The influence of time in changing the character of political affairs and parties is paramount and undeniable. That which once wore a very fair and promising aspect becomes by the lapse of ages a thing of a quite different mould; bad changes into good, and those that are wholesome and salutary gradually lose all the beauty and excellence of their character. Time as the proverb says is the greatest inovator. But we are very often mistaken in our estimate of political affairs and parties. The party which once possessed a very high character is still considered by some in the same noble light even where time has operated most successfully in altering it to the worst—and it is of this said mistake, which we guided by an implicit assent to the dictates of our past experience, are so apt to fall into even when exceptions prove greater than the rule,—that Dr. Arnold so justly complains by the sentence alluded to. To illustrate this let us consider the different changes which have been successfully rought in the characters of the Ghwelfs and Gheberlines—the two celebrated parties which so strongly advocated the papal and kingly authorities in the different states of Germany, Italy &c. Considering with accuracy these two characters at the very beginning of the strongly we cannot refrain from detesting as cordially the Ghebellines as we cherish and magnify the names of the Guelphs. The Pope stood at this time in the place of a moral and religious teacher authorized by a high commission to watch over the impressions and assosiations of the untaught multitude, to

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shew them the true path for attaining eternal bliss and contentment, to instil into their breasts such lessons of morality as would enable them to perform skilfully, justly and magnanimously the duties which they owe to God their Supreme Creator and to all their fellow creatures; to assail their ears with the voice of morality and warn them constantly from forsaking the path of *virtue*. On the other hand the king stood in the place of a worldly despot, corrupt and tyrannical, entirely careless of the welfare of his subjects and totally unscrupulous in the selection of means for the satisfaction of his carnal ambition. Such was actually the case of the heads of the two parties above mentioned at the very beginning of our historical notice of them. But they entirely changed their characters as time and circumstances began to alter. The Pope degenerated into a religious despot, entirely versed with the crafts of his profession and quite at home with the purposes of his sordid and cold self interest. The king stood in the place of "God's vicegerent in earth" as Lord Bacon as called him, invested with one of the divine attributes,—the power of punishing the guilty and rewarding the innocent and virtuous—and morally bound to the furtherance of the welfare of the subject population. Who can now forbear from changing his side? Who will now be inclined to the Guelfs? It is to him and him alone that Dr. Arnold's censure is peculiarly applicable.

Answer 11th.—At the close of the 16th century England was distracted by three great parties—consisting first of those who were the supporters of the established Church as already reformed—second those who wished to carry the reformation further, and third of those who were entirely averse to all changes whatever, but were strongly attached the Pope and his Church. The followers of the Reformed Churches, though disagreed with one another in many points of minor importance, unanimously concurred in asserting the national independence in matters of religion and conscience, in excluding the dominion of the Popes, and in acknowledging the King or the Queen of the Realm as the head of the Church. The second party, *i. e.* the party of the Puritans strongly advocated a further reform in the Church—they complained bitterly of an unpreaching ministery, strongly protested against the reading of a fixed liturgy, denied the supremacy of the monarch in matters of Church government and insisted upon a litteral interpretation of the scriptures in all religious questions, as the only solution of the puzzle. But the other party *i. e.* the party of the Roman Catholics, could not act openly for themselves as the mass of the nation belonged to the party of reformation. They agreed with the Puritans in denying the royal ascendancy but differed too widely from them in considering the Pope as the Supreme governor in all matters of religion. A very celebrated author has described these parties by the names of the "active Romanists," the "peaceable Protestants" and the "restless non-conformists" but Dr. Arnold has very justly remarked that the character of peaceable meekness assigned to the members of the second party cannot be considered as truly admirable. They had no temptation to be otherwise; therefore they are not entitled to any positive share of commendation.

Answer 12th.—The French revolution was a revolution not only in political affairs, but introduced great changes in the social relations of the people of that country. The government was not only changed but all the distinctions between the rich and the poor, the great and the law went to "wrack." Every freeborn citizen was levelled as it were in the great theatre of the world. It was this which made it the darling of the common multitude, who anticipating the useful advantages that would accrue them from a system of government, whose principle will be *liberty*, *equality*, and *fraternity*, hesitated not in the least to lend all their assistance to the coming movement and to strain every nerve for the accomplishment of so grand a purpose. With the exception of the poorer classes of Lavendee, they all hailed with joy the hour which promised them an equal enjoyment of rights, privileges and honours, with those proud worthies who before trampled upon them as creatures not endued with rationality; and tried their main and might to aid the abolition of the seigneuorial dominion in France—a dominion which at one time denied them privileges which every human creature is entitled to claim. But the case was entirely different with the revolution of 1688 in England. It was a contest about principles which is not very intelligible to the "hydraheaded multitude" of Shakespeare. The English revolution introduced no changes in the affairs of social life—changes which every one can appreciate; and though by increasing the power of the Parliament the great strong-hold of British liberty, and by lessening the power of the monarch, it did confer on all the most everlasting advantages, yet the communication of these advantages was indirect; consequently the people whose "eyes" as Shakespeare says "are more learned than their sense" were utterly inadequate to understand and appreciate them fully. They found the old relations in which they stood to the higher classes were still the same; and that over and above this additional taxes which were imposed upon them for the accomplishment of the Revolution involved them in greater poverty and misery. They paid and suffered, as they thought for no real advantage. It was these feelings combined with that peculiarity in the constitution of the popular mind by which it is led to haste the existing state of things, which estranged them from the cause of the Revolution of 1688, in England.

Answer 13th.—In the year 1703 the popular party in England supported the war against France because they suspected the French king and his subjects to be in close and secret alliance with their political rivals at home. The secret negotiations with the French power, which were carried on by the party opposed to them, and the succession of a person whom they did not like in the place of Marlborough gave them true cause of alarm. Like the Council of the Four Hundred in Athens, who though they were willing to maintain the power and influence of that celebrated city, were yet firmly resolved to surrender her into the hands of

Appendix C.

the Lacedemonians rather than bear the triump of their adversaries at home, the aristocratical party in England held secret communications with the French sovereign with the hope of depressing their political rivals in their own country. But in 1793 the state of parties in the two countries was entirely changed. The English party which advocated the popular cause found that the mass of the French nation was inclined to their side; they they therefore very consistently supported the French war in 1703 as they deprecated it in the present case.

Answer 14th.—The first great qualification in an historian is an earnest craving after truth and utter impatience not of falsehood merely but of error. Our author very justly observes that truth when sought can always be found; an well intentioned man, who is a sincere votary of truth and who not only hates falsehood but is utterly impatient in detecting the tricks which falsehood garbled in the shape of truth generally plays with mankind is a person whose credibility is indisputable. Many of the modern historians being deceived by one of the usual flourishes of Barrere have furnished us with a very false account of the striking of the French ship La Vengur. Even Mr. Carlisle in the first edition of his celebrated work adopted this erroneous account of the valour of the French crew in that ship. But his strong and vigourous mind which was quite impatient of all errors, being led to enquire further into this matter, he found from sources of great credibility that the case was actually the reverse. The detection by the celebrated Mr. Waddington of that celebrated misquotation by Mosheim, Robertson and other writers of great note sufficiently illustrates the necessity in an historian of an earnest craving after truth and utter impatience not of falsehood merely but of error. Had not the enquiring and speculative mind of Mr. Waddington been led to this discovery, the world would have been perhaps still imposed upon by a strange misunderstanding of the state of men's mind with respect to religion at the beginning and end of the 7th century. A passage of D'Acheri one of the Benidictine writers would have been falsely attributed to the Bishop of Eiloy, so important therefore is this qualification in an historian that this ought to stand in the first and most prominent place.

Dwarkanauth Mittre, Hooghly College,
First Class, College Department.

APPENDIX D.

LIST of SPECIAL REPORTS made to the Government of INDIA by the LAW COMMISSION, during the First Three Years of its Existence.

DATE OF REPORT.	SUBJECT.
26 June - 1835	Maritime Offences.
2 July - ,,	Registration of Deeds.
13 November ,,	Indigo Contracts.
15 December ,,	Contempt of Courts.
6 May - 1836	Deportation of Natives.
16 September ,,	Emigration of Natives beyond Sea.
23 September ,,	Emigration of Coolies to Mauritius.
18 November ,,	Government Securities.
16 December ,,	Property of Parsees.
30 May - 1837	Judicial System, Madras; and Futwahs of Mahomedan Law Officers.
27 June - ,,	Suttees at Bombay.
4 July - ,,	Smuggling, Madras.
4 July - ,,	Powers of Ameens of Police.
11 July - ,,	Seamen.
14 July - ,,	State Prisoners.
15 July - ,,	Sorcery and Witchcraft.
22 August - ,,	Child-murder. Re-marriage of Hindoo Widows.
20 July - ,,	Draft Acts, marked A., B. and C.
2 September ,,	
25 July - ,,	Prohibition of ornamenting Children.
25 July - ,,	Registration of Mookhtyarnamehs.
25 July - ,,	Admiralty Jurisdiction.
14 September ,,	- - Abolition of Corporal Punishment. Penalties of Prevarication.
2 January - 1838	Tahseeldars. Distrained Property.
14 September 1837	Public Tranquillity.
10 November ,,	Criminal Procedure, Tenasserim.
10 November ,,	Hidden Treasure.
12 December ,,	- - Apprehension and Trial a second time of the same Person on the same Charge.
2 January - 1838	- - Distinction in powers of a Session Judge and of a Magistrate to award Fines.
12 January - ,,	Residence of British-born Subjects in the Interior.
15 January - ,,	Wife Coercion.
19 January - ,,	Jurisdiction of Bombay Courts in Personal Actions.
19 January - ,,	Assaults by Europeans at Cochin.
19 January - ,,	Municipal Laws.
12 January - ,,	Articles of War—2 Parts.
12 February ,,	
23 February ,,	- - Perambulation of Commission, and outline System of Civil and Criminal Procedure.

GENERAL INDEX

TO

THE PRINCIPAL MATTERS

CONTAINED IN

THE EVIDENCE

TAKEN BEFORE THE

SELECT COMMITTEE OF THE HOUSE OF LORDS,

APPOINTED TO INQUIRE INTO

The Operation of the Act 3 & 4 Will. 4, c. 85, for the better Government of Her Majesty's INDIAN TERRITORIES.

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——— AGRICULTURAL CLASS, greater prosperity of, in British, than in native states, - - - - - -	Sir G. Clerk, - 1627.
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TO

R E P O R T

FROM THE

SELECT COMMITTEE OF THE HOUSE OF LORDS

APPOINTED TO INQUIRE INTO

The Operation of the Act 3 & 4 Will. 4, c. 85, for the better Government of Her Majesty's INDIAN TERRITORIES.

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1. *Evidence as to the present System:*

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1. *Particulars as to the General Conduct of Business by the Court:*

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1. *Legislative Powers of the several Authorities who administer the affairs of India; Alterations suggested.*
2. *Character of past Legislation.*
3. *Consultation of the Opinions of the Natives in regard to intended Laws.*

1. *Legislative Powers of the several Authorities who administer the affairs of India; Alterations suggested:*

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1. *Steps taken for the Adoption of this Measure; Failure of the same.*

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1. *Evidence as to their Moral and Intellectual Qualifications:*

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Peacock, Mr. Directions recently sent to the Indian Government to enact such penal code as they, in consultation with Mr. Peacock, might think fit, *Hill* 3201.

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1. *Details as to the steps taken to prepare and carry out an uniform Penal Code for the whole of India.*
2. *Benefits anticipated from the passing of the Code.*
3. *How far feasible to provide a correct and intelligible Translation for the use of the Natives.*

1. *Details as to the steps taken to prepare and carry out an uniform Penal Code for the whole of India:*

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Witness and Mr. Daniel Eliott reviewed and reported upon all the criticisms which had been made upon Mr. Macaulay's penal code, and recommended that it should immediately be made law, *Cameron* 1960, 1961——Dates of the presentation of the draft of the code, and of the reports upon the criticisms thereon, *ib.* 1962——Reports on the penal code delivered in; they have not been presented to Parliament, *ib.* 1963, 1964. *and App. p.* 349——Proceedings consequent upon these reports, *ib.* 1965. 1996–1998.

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Supreme Council:

1. *Mode of Appointment, Powers, and General Working of the Council.*
2. *Importance of a Legislative Quorum being provided.*
3. *Expediency of appointing Members from Madras and Bombay considered.*
4. *Other considerations in regard to the future Appointment and Powers of the Council.*

1. *Mode of Appointment, Powers, and General Working of the Council:*

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Thomason, Mr. Earlier experience of Mr. Thomason adverted to as having produced that competency which, as Lieutenant-governor of the North Western Provinces, he has since displayed, *Bird* 942——Advantages of the personal supervision of Mr. Thomason in the North Western Provinces, *Millett* 1458——Exceedingly able character of Mr. Thomason, *Robertson* 2400, 2401.

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TO

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